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d/b/a Ashley Furniture HomeStore, Eugene Chriniyan and Kathy Martin

BY: DANIEL C. RITSON, ESQUIRE (027802004)

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEW JERSEY**

<p>ISABEL PEREZ, Plaintiff, v. FACTORY DIRECT OF SECAUCUS, LLC d/b/a ASHLEY FURNITURE HOMESTORE, EUGENE CHRINIYAN, in his official and individual capacities, and KATHY MARTIN, in her official and individual capacities, Defendants.</p>	<p>CIVIL ACTION NO.: 2:13-cv-00327 (SDW-MCA) <b>CERTIFICATION OF COUNSEL IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT</b></p>
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Daniel C. Ritson, of full age, hereby certifies as follows:

1. I am an attorney in the law firm of Archer & Greiner, P.C., attorneys for Defendants Factory Direct of Secaucus, LLC d/b/a Ashley Furniture HomeStore, Eugene Chriniyan, and Kathy Martin (collectively, "Defendants").
2. I make this certification in support of Defendants' Motion for Summary Judgment.
3. Attached as Exhibit "A" is a true copy of the Amended Complaint filed in this action by Plaintiff Isabel Perez.

4. Attached as Exhibit "B" is a true copy of those portions of the transcript of the July 17, 2013 deposition of Kathy Martin, which portions are cited in the Statement of Material Facts Not in Dispute Pursuant to Local Civ. Rule 56.1(a) (the "Statement of Facts") and the Brief in Support of Defendants' Motion for Summary Judgment, submitted herewith (the "Brief").

5. Attached as Exhibit "C" is a true copy of those portions of the transcript of the July 19, 2014 deposition of Eugene Chrinian, which portions are cited in the Statement of Facts and the Brief.

6. Attached as Exhibit "D" is a true copy of those portions of the transcript of the January 24, 2014 deposition of Theresa Ricciardi, which portions are cited in the Statement of Facts and the Brief.

7. Attached as Exhibit "E" is a true copy of those portions of the transcript of the February 18, 2014 deposition of Lisa Thorpe, which portions are cited in the Statement of Facts and the Brief.

8. Attached as Exhibit "F" is a true copy of those portions of the transcript of the February 24, 2014 deposition of Amber Dominguez, which portions are cited in the Statement of Facts and the Brief.

9. Attached as Exhibit "G" is a true copy of those portions of the transcript of the June 18, 2014 deposition of Mark Scott, which portions are cited in the Statement of Facts and the Brief.

10. Attached as Exhibit "H" is a true copy of those portions of the transcript of the July 11, 2013 deposition of Isabel Perez, which portions are cited in the Statement of Facts and the Brief.

II. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



DANIEL C. RITSON

Dated: August 4, 2014

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# EXHIBIT A

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

ISABEL PEREZ,

Plaintiff,

v.

FACTORY DIRECT OF SECAUCUS, LLC d/b/a  
ASHLEY FURNITURE HOMESTORE, EUGENE  
CHRINIAN, in his official and individual capacities  
and KATHY MARTIN, in her official and  
individual capacities,

Defendants.

CASE NO. 13-CV-327 (DMC)(MF)

AMENDED COMPLAINT  
JURY TRIAL DEMAND

Plaintiff Isabel Perez (“Plaintiff” or “Ms. Perez”), by and through her undersigned counsel, as and for her Amended Complaint in this action against Defendants Factory Direct of Secaucus, LLC d/b/a Ashley Furniture HomeStore, Eugene Chrinian and Kathy Martin (collectively, “Defendants”), hereby alleges as follows:

NATURE OF THE CLAIMS

1. This is an action for declaratory, injunctive and equitable relief, as well as monetary damages, to redress Defendants’ unlawful employment practices against Plaintiff, including its discriminatory treatment and harassment of Plaintiff due to her sexual orientation and its unlawful retaliation against her after she complained about unlawful discrimination in the workplace in violation of the Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“Section 1981”), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”), and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.* (“NJLAD”).

JURISDICTION AND VENUE

2. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1333 as this action involves federal questions regarding the deprivation of Plaintiff's rights under Section 1981 and Title VII. The Court has supplemental jurisdiction over Plaintiff's related claims arising under state and local law pursuant to 28 U.S.C. § 1337(a).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1331(a) because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

ADMINISTRATIVE PROCEDURES

4. Prior to the filing of the Complaint, Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC"), alleging violations of Title VII. Plaintiff's EEOC charge arose out of many of the same facts alleged herein.

5. On or about July 6, 2013, Plaintiff received a notice of right to sue issued by the EEOC in connection with the previously filed charge of discrimination. This Amended Complaint has been filed within 90 days of Plaintiff's receipt of her notice of right to sue from the EEOC.

6. Any and all other prerequisites to the filing of this suit have been met.

PARTIES

7. Plaintiff Isabel Perez is a resident of Bergen County, New Jersey. At all relevant times, Plaintiff is and has been a resident of the State of New Jersey and met the definition of an "employee" under all applicable statutes.

8. Upon information and belief, Defendant Factory Direct of Secaucus, LLC d/b/a as Ashley Furniture HomeStore ("Ashley" or the "Company") is engaged in the sale of home

furniture in the metropolitan New York and New Jersey area. At all relevant times, Ashley has met the definition of an “employer” under all applicable statutes.

9. Defendant Eugene Chrinian is the Chief Executive Officer of Ashley and resides in the State of New Jersey. At all relevant times, Defendant Chrinian directly participated in the discriminatory and otherwise unlawful employment decisions and actions taken against Plaintiff, and was a “covered employer” and/or an “aider” or “abettor” under all relevant statutes. Defendant Chrinian, through a number of different legal entities, owns and operates 7 Ashley Furniture HomeStore locations in the metropolitan New York and New Jersey area.

10. Defendant Kathy Martin is Ashley’s Director of People Services and Development and resides in the State of New Jersey. At all relevant times, Defendant Martin directly participated in the discriminatory and otherwise unlawful employment decisions and actions taken against Plaintiff, and was a “covered employer” and/or an “aider” or “abettor” under all relevant statutes.

#### FACTUAL ALLEGATIONS

11. Plaintiff is a homosexual female and former employee of Ashley.

12. Plaintiff was employed by Ashley from September 25, 2012 to October 8, 2012 as a Human Resources Director.

13. As Human Resources Director, Plaintiff reported to Defendant Martin and Defendant Chrinian.

14. During the course of her employment with the Company, Plaintiff’s position had responsibility for providing human resources support and services to each of the Ashley Furniture HomeStore locations owned and operated by Defendant Chrinian.

15. From the outset of Plaintiff's employment with the Company, Plaintiff was subjected to a pattern of inappropriate questions concerning her religion and her sexual orientation as well as derogatory comments regarding the race and ethnicity of other Company employees.

Plaintiff's Employment Interviews with Chrinian and Martin

16. Prior to accepting employment with Ashley, Plaintiff interviewed with both Martin and Chrinian. During these interviews, both Martin and Chrinian questioned Plaintiff about her religious views and marital status.

17. During Plaintiff's interview with Martin, Martin made a number of derogatory racial comments. For example, Martin referred to African-Americans as "Brownies" and Caucasians as "Creamies." Martin explained that she could make these comments because she was of mixed descent.

18. During her interview with Martin, Martin also advised Plaintiff that Chrinian was a Christian and asked Plaintiff whether she was. Plaintiff responded that she was and Martin then asked Plaintiff she asked a number of questions about being a minister because Plaintiff had listed on her resume that she was a member of the National Association of Christian Ministers.

19. During the interview, Martin also advised Plaintiff that Chrinian adhered to the teachings of the C12 Group – a group of Christian business owners that advocates the application of biblical principals to business management.

20. During Plaintiff's interview with Chrinian, Chrinian questioned Plaintiff about her marital status – which Plaintiff attempted to deflect because she did not believe it was an appropriate question for an employment interview and because she did not want to disclose her sexual orientation at this point.

21. Chrinian also question Plaintiff about being a minister and asked if Plaintiff was a Christian. When she responded that she was, Chrinian asked if she was a "real Christian," to which Plaintiff responded that she was.

22. After her interviews with both Martin and Chrinian, Plaintiff was offered the position with Ashley and she accepted the following day. Plaintiff and Defendants then agreed that Plaintiff's official start date would be Tuesday, September 25, 2012.

23. After accepting their job offer, Plaintiff began to take steps to wind down the private consulting business that she had been operating prior to her employment with Ashley so that she could focus her efforts on her employment with Ashley.

Plaintiff's Pre-Employment Work and Martin's Continued Derogatory Comments

24. On September 19, 2012, at Martin's request, Plaintiff attended a training session at ADP with two other Ashley Human Resources employees.

25. On September 21, 2012, at Martin's request, Plaintiff met with Martin at the Company's offices. At the start of this meeting, Martin took hold of Plaintiff's hands and began to pray to God to ask for guidance in addressing the particular work situation that they were set to discuss.

26. During this same meeting, Martin disclosed the fact that she was frequently possessed by Jesus and would sometimes speak in tongues without warning. At this meeting, Martin said that she "spoke to God" and that she was "sure [they] would make a balanced team."

27. During this meeting, Martin made a number of derogatory remarks about homosexuals, stating that "lesbos and gays would be judged" and that she follows the "word of Leviticus" – which purportedly condemns homosexuality – and that "there are many who call themselves true Christians, but they don't know what that means."

Plaintiff Officially Begins Her Employment With Ashley

28. On September 25, 2012, Plaintiff's "official" start date, Plaintiff witnessed Martin make a number of derogatory and discriminatory comments about Company employees.

29. For example, Plaintiff witnessed Martin refer to a Company employee as a "nigga" – which she tried to explain was different from the n-word. When Plaintiff expressed concern and asked Martin to stop using these derogatory comments in the workplace, Martin responded, "Girl, please. They're different. It was nigga, not [the n-word]." Martin then advised Plaintiff that she needed to be more understanding of the Company's "culture."

30. Similarly, two other Human Resources employees recounted to Plaintiff that Martin often directed derogatory and discriminatory comments to them, including referring to them as "nigga" (as well as the n-word), "bitch," "heiher," "ghetto," "lesbo" and "fag," among others.

31. Over the course of the following two weeks, Plaintiff continued to raise concerns with Martin regarding Martin's and other co-workers' discriminatory comments and conduct including, but not limited to, the use of various racial and ethnic slurs in the workplace as well as Martin's constant application of her religious beliefs to relatively trivial workplace matters that far exceeded what would be reasonable under similar circumstances.

32. During this same time period, Martin continued her practice of praying before most of her work meetings with Plaintiff and her unsolicited "laying of the hands" on Plaintiff which she explained was so that God could speak to Plaintiff through Martin.

33. While Plaintiff attempted to keep her sexual orientation private, it was well known among Plaintiff's co-workers that she was a lesbian and was married to a woman. In fact, Plaintiff disclosed her sexual orientation to two of her co-workers when they questioned her

about her marital status. Upon information and belief, both Chriniyan and Martin were aware of Plaintiff's sexual orientation.

Defendants' Termination of Plaintiff's Employment

34. On October 5, 2012, Martin and Plaintiff were walking in the parking lot and approached Plaintiff's car. Martin then questioned Plaintiff about a decal that she had on her car. The decal was for the Human Rights Campaign – the nation's largest civil rights organization dedicated to achieving equality for lesbian, gay, bisexual and transgender Americans.

35. Plaintiff explained to Martin that the decal on her car was the "equality symbol." Martin then asked Plaintiff whether it was for "the gays" and then proceeded to tell Plaintiff that she was not sure that she made the right decision about hiring Plaintiff because she did not fit the "culture" at the Company. She then explained that she was going to "speak to God" about Plaintiff's continued employment with Ashley.

36. The next business day, Monday, October 8, 2012, Plaintiff was called into a meeting with Martin and Alfred Nunez (Sales Manager) where Martin told Plaintiff that she had prayed about it and that God had spoken to her and told her that she needed to let Plaintiff go. Martin continued: "You just don't fit our culture. . . . I need someone in your position that can embody our mission statement. Your beliefs just don't fit." Martin stressed to Plaintiff that the decision was not related to her work performance, telling Plaintiff: "We all know you are very capable and can easily manage the entire department."

37. In light of the foregoing, it is clear that Plaintiff was terminated because of her sexual orientation and/or objection to Martin's discriminatory comments.

38. While Martin did not explain what she meant when she said that Plaintiff did not fit the Company's "culture" or "embody [the Company's] mission statement," Martin's

comments were a clear reference to the Company's efforts to incorporate management's view of Christian teachings into the workplace.

39. Indeed, the Company's website indicates that it proudly supports FamilyLife, an organization whose mission is to "effectively develop godly marriages and families who change the world one home at a time." While this mission is laudable on its face, in practice it promotes discrimination against homosexuals as the founder of FamilyLife has warned against the "radical homosexual element in our culture."

#### FIRST CAUSE OF ACTION

(Retaliation in Violation of Section 1981 - Against All Defendants)

40. Plaintiff hereby repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

41. Defendants have violated Section 1981 by subjecting Plaintiff to retaliation for her protected complaints and opposition to Martin's discriminatory comments on the basis of race and ethnicity, by, *inter alia*, terminating Plaintiff's employment with the Company.

42. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of Section 1981, Plaintiff has suffered and continues to suffer monetary and/or economic damages, including, but not limited to, loss of past and future income, compensation and benefits for which she is entitled to an award of monetary damages and other relief.

43. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of Section 1981, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering for which she is entitled to an award of monetary damages and other relief.

44. Defendants' unlawful retaliatory conduct constitutes a willful and wanton violation of Section 1981, was outrageous and malicious, was intended to injure Plaintiff, and was done with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

SECOND CAUSE OF ACTION

**(Retaliation in Violation of Title VII – Against Defendant Factory Direct of Secaucus, LLC)**

45. Plaintiff hereby repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

46. Defendant Factory Direct of Secaucus, LLC has violated Title VII by subjecting Plaintiff to retaliation for her protected complaints and opposition to Martin's discriminatory comments on the basis of race, ethnicity, sex, and religion by, *inter alia*, terminating Plaintiff's employment with the Company.

47. As a direct and proximate result of Defendant Factory Direct of Secaucus, LLC's unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered and continues to suffer monetary and/or economic damages, including, but not limited to, loss of past and future income, compensation and benefits for which she is entitled to an award of monetary damages and other relief.

48. As a direct and proximate result of Defendant Factory Direct of Secaucus, LLC's unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered and continues to suffer severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering for which she is entitled to an award of monetary damages and other relief.

49. Defendant Factory Direct of Secaucus, LLC's unlawful retaliatory conduct constitutes a willful and wanton violation of Title VII, was outrageous and malicious, was intended to injure Plaintiff, and was done with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

**THIRD CAUSE OF ACTION**

**(Violation of the New Jersey Law Against Discrimination – Against All Defendants)**

50. Plaintiff hereby repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

51. Defendants have discriminated against Plaintiff in violation of the New Jersey Law Against Discrimination by subjecting her to disparate treatment because of her sexual orientation, by, *inter alia*, terminating Plaintiff's employment with the Company.

52. As a direct and proximate result of the Defendants' unlawful discriminatory conduct in violation of the New Jersey Law Against Discrimination, Plaintiff has suffered and continues to suffer financial and economic damages as well as severe mental anguish and emotional distress, including but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering.

53. Defendant's unlawful discriminatory conduct constitutes a willful and wanton violation of the New Jersey Law Against Discrimination, was outrageous and malicious, was intended to injure Plaintiff, and was done with reckless indifference to Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

#### FOURTH CAUSE OF ACTION

##### (Retaliation in Violation of the New Jersey Law Against Discrimination – Against All Defendants)

54. Plaintiff hereby repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

55. Defendants have violated the New Jersey Law Against Discrimination by subjecting Plaintiff to retaliation for her protected complaints and opposition to Martin's discriminatory comments on the basis of race and ethnicity by, *inter alia*, terminating Plaintiff's employment with the Company.

56. As a direct and proximate result of Defendant's unlawful retaliatory conduct in violation of the New Jersey Law Against Discrimination, Plaintiff has suffered and continues to suffer monetary and/or economic damages as well as suffer severe mental anguish and emotional distress, including but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering.

57. Defendant's unlawful retaliatory conduct constitutes a willful and wanton violation of the New Jersey Law Against Discrimination, was outrageous and malicious, was intended to injure Plaintiff, and was done with reckless indifference to Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in her favor and against Defendant, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the United States and the State of New Jersey;

B. An injunction and order permanently restraining Defendants from engaging in such unlawful conduct;

C. An order directing Defendants to place Plaintiff in the position she would have occupied but for Defendants' discriminatory, retaliatory and/or otherwise unlawful treatment of her, as well as to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices and other unlawful conduct are eliminated and do not continue to affect Plaintiff;

D. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages, including, but not limited to, the loss of past and future income, wages, compensation, job security and other benefits of employment;

E. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all non-monetary and/or compensatory damages, including, but not limited to, compensation for her severe mental anguish and emotional distress, humiliation, depression, embarrassment, stress and anxiety, loss of self-esteem, self-confidence and personal dignity, and emotional pain and suffering and any other physical or mental injuries;

F. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for harm to her professional and personal reputation and loss of career fulfillment;

G. An award of damages for any and all other monetary and/or non-monetary losses suffered by Plaintiff in an amount to be determined at trial, plus prejudgment interest;

H. An award of punitive damages;

- I. An award of costs that Plaintiff has incurred in this action, as well as Plaintiff's reasonable attorneys' fees to the fullest extent permitted by law; and
- J. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: July 18, 2013

THE OTTINGER FIRM, P.C.

By: s/Denise Rubin Glatter  
Denise Rubin Glatter  
Ariel Y. Graff (*pro hac vice*)

20 West 55th Street, 6th Floor  
New York, NY 10019  
Telephone: (212) 571-2000  
Facsimile: (212) 571-0505

COUNSEL FOR PLAINTIFF

# EXHIBIT B

[Page 1]

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

(COPY)

ISABEL PEREZ,

Plaintiff,

Case No.

13 Civ. 327 (DMC) (MF)

v.

FACTORY DIRECT OF SECAUCUS,  
LLC d/b/a ASHLEY FURNITURE  
HOMESTORE, EUGENE CHRINIAN,  
in his official and  
individual capacities, and  
KATHY MARTIN, in her  
official and individual  
capacities,

Defendants/Third-  
Party Plaintiffs,

v.

THE OTTINGER FIRM, P.C

-----X

VIDEOTAPED DEPOSITION of KATHY MARTIN,  
held at the offices of STOTZ COURT REPORTING,  
One Gateway Center, Suite 2600, Newark,  
New Jersey, Pursuant to Notice, before  
Beth Radabaugh, a Certified Shorthand Reporter  
and Notary Public of the State of New Jersey,  
on Wednesday, July 17, 2013, commencing at  
10:07 a.m.

[Page 21]

1 at the time she was Ms. Thorpe's supervisor?

2 A. Manager of HR.

3 Q. During what period of time was

4 Ms. Bautista an HR manager?

5 A. I don't know.

6 Q. When did you begin your employment at  
7 Ashley?

8 A. May 7th.

9 Q. Of what year?

10 A. 2012.

11 Q. Are you currently employed --

12 A. No.

13 Q. -- at Ashley?

14 When did you end your employment at  
15 the company?

16 A. The end of February.

17 Q. February 2013?

18 A. Yes.

19 Q. What position did you hold when you  
20 first began working at Ashley?

21 A. Director of people services and  
22 development.

23 Q. Did you hold any other positions or  
24 job titles during your tenure?

25 A. No.

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1 about them. So that doesn't offend.

2 Q. So was it your perspective -- or  
3 strike that.

4 From your perspective was there  
5 anything offensive or inappropriate about the  
6 statement that you said Ms. Perez made?

7 A. Not to me.

8 Q. Was anything else about anyone's  
9 family discussed during your interview with  
10 Ms. Perez?

11 A. No.

12 Q. Did you interview Ms. Perez in a  
13 private office?

14 A. Yes.

15 Q. Was the door closed?

16 A. It was partly open.

17 Q. Did the subject of religion come up  
18 in any way during that meeting?

19 A. Describe religion.

20 Q. Religious affiliation, religious  
21 faith.

22 A. Yeah.

23 Q. How did that subject come up?

24 A. She told me she was an Episcopalian  
25 minister.

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1 about Ms. Perez?

2 A. I told him that her skills looked  
3 good. I told him about the other candidate that  
4 I liked, but I told him that because she had  
5 told me about her education and the juris  
6 doctorate, that that might be the way we want to  
7 go. I wanted him to make sure and to think  
8 about what he saw.

9 Q. What, if anything, did Mr. Chrinian  
10 say to you about Ms. Perez?

11 A. He liked her skills. He liked part  
12 of her presentation and would consider that she  
13 might be a real viable candidate.

14 Q. Did either of you say anything else  
15 about Ms. Perez during that discussion?

16 A. Yes.

17 Q. What else was said?

18 A. He liked her skills, but he  
19 questioned or asked me if I could speak with her  
20 about the employee relations piece because she  
21 seemed a little assertive, if she actually could  
22 handle pulling back some of that personality  
23 when she dealt with the employee relation piece  
24 of it.

25 Q. What did you say in response to that?

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1           A.     That I would speak with her and ask  
2     her if she had a softer side for the employee  
3     relations piece.

4           Q.     Did you have an opinion either way on  
5     that issue when you heard Mr. Chriniyan raise it?

6           A.     When I heard him raise it?

7           Q.     That is in your own mind did you  
8     agree with that sentiment?

9           A.     I don't remember because I don't -- I  
10    don't -- I don't remember if I had that same  
11    sentiment or not, but I knew that I needed to  
12    address it.

13          Q.     Did Mr. Chriniyan explain what it was  
14    about Ms. Perez's presentation that caused him  
15    concern about her being assertive, as you had  
16    described it?

17          A.     I don't -- I don't remember.

18          Q.     Beyond what you've already testified  
19    to, was anything else concerning Ms. Perez  
20    discussed between you and Mr. Chriniyan on that  
21    occasion?

22          A.     No, just that he -- he thought he  
23    might want to render an offer.

24          Q.     Did you discuss anything about the  
25    offer?

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1 Q. Was that meeting -- strike that.

2 Do you recall the first date of

3 Ms. Perez's employment at Ashley?

4 A. Yes. Her official first date?

5 Q. Sure.

6 A. The 25th of September.

7 Q. Was your discussion with Ms. Perez  
8 that you referenced a moment ago that touched on  
9 her consulting business, did that happen prior  
10 to the 25th?

11 A. Prior to it, yes.

12 Q. Why did you have a meeting with  
13 Ms. Perez prior to her official start date?

14 A. I had concerns about her employment.

15 Q. Concerns about her, I'm sorry?

16 A. Her employment and her fit within the  
17 organization.

18 Q. At what point did you develop those  
19 concerns?

20 A. After a meeting with ADP and I  
21 observed her interaction with Lisa Thorpe and  
22 Amber Dominguez.

23 Q. What did you observe that caused you  
24 concern with respect to Ms. Perez's interaction  
25 with Ms. Thorpe?

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1           A.     There was -- looking at their -- they  
2     just -- I don't know what it was, but there was  
3     a bumping and a confrontational atmosphere  
4     between them.

5           Q.     Is that something that you observed  
6     during the course of the ADP meeting?

7           A.     Yes.

8           Q.     Was there any other aspect of  
9     Ms. Perez's interaction with Ms. Thorpe that  
10   caused you concern?

11           MR. HARZ: Well, objection because  
12     you're mischaracterizing. She said between  
13     Ms. Thorpe and Ms. Dominguez.

14           MR. GRAFF: I had asked now  
15     specifically what she had observed with  
16     respect to Ms. Perez's interactions with  
17     Ms. Thorpe that caused her concern.

18           MR. HARZ: And you said Ms. Dominguez  
19     as well, or her response was Ms. Thorpe and  
20     Dominguez.

21           MR. GRAFF: I think there was another  
22     question in between, but I'll clarify it.

23           MR. HARZ: Please.

24           Q.     Specifically with respect to  
25     Ms. Thorpe, what did you observe that caused you

[Page 180]

1 concern as to Ms. Perez's interactions with  
2 Ms. Thorpe?

3 A. So you don't care about Ms. Dominguez  
4 right now?

5 Q. I'll ask about Ms. Dominguez  
6 separately.

7 A. Okay. When I first came -- got to  
8 the meeting, I was there -- I got there a little  
9 late, I had text messages and phone calls from  
10 Isabel stating that she felt like there was a --  
11 there was a conflict and she met me when I --  
12 when I got to the meeting, she met me and showed  
13 me where they were and when I walked in, the  
14 tension was just thick, just thick. You just  
15 could cut it it was so thick, and when the  
16 instructor was teaching, Lisa would ask a  
17 question and Isabel would make a huffing, hhhh.  
18 You know, how do you -- what's a word for that?

19 Q. I don't want to put words into your  
20 mouth.

21 A. Hhhh. You know what I mean?

22 MR. GRAFF: If this is accurate, I'll  
23 note for the transcript the witness made  
24 what sounded perhaps like an exasperated --

25 A. Okay.

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1 MR. GRAFF: -- exclamation.

2 A. And that's what Isabel did, and then  
3 I watched Lisa and Amber start to talk between  
4 themselves and then Isabel look at me and say,  
5 see what I mean, they won't listen to me, and I  
6 was thinking, okay, we're going to have issues,  
7 this is not good.

8 And then specifically with Lisa and  
9 Isabel, when I went to the restroom, Lisa  
10 followed me out and said, she won't let us ask  
11 questions. She keeps saying that you're not --  
12 this isn't Kathy's concern, she's going to take  
13 over the ADP project. We're just trying to find  
14 out information and we can't get information.  
15 She was very, very frustrated.

16 And then we went back into the  
17 meeting and it excalated to the point where I  
18 thought, okay, I got to separate these people.  
19 So I moved -- Isabel and I went to another  
20 meeting while I left Amber and Lisa there with  
21 the ADP trainer.

22 And you didn't ask me about Amber,  
23 but, by the way, Amber pulled me -- when I  
24 went -- we went to get something to eat, she  
25 said can I talk to you, and she told me the same

[Page 182]

1       thing.

2           Q.     Apart from what you just said, was  
3       there anything else that you observed as to  
4       Ms. Perez's interaction with Ms. Dominguez that  
5       caused you concern?

6           A.     Yeah, I did see that very -- a little  
7       past assertive, but on the tipping point between  
8       assertive and aggressive confrontation.

9           Q.     Anything else?

10          A.     No.

11          Q.     Why -- as far as you know why was  
12       Ms. Perez at the ADP meeting prior to the  
13       official start date of September 25th?

14          A.     We had discussed that there was going  
15       to be a meeting and she told me, well, if I  
16       don't have plans for the day, I'd like to come,  
17       and I thought that would be a great idea since  
18       you'll be helping us with this project. So...

19          Q.     Was it Ms. Perez who suggested that  
20       she perhaps would attend the meeting?

21          A.     I don't remember -- I don't remember  
22       which way that went, but I know we were  
23       discussing it and it came up. So I don't know  
24       if she said it or I said it. I don't remember  
25       that.

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1       that with Ms. Perez? Was it prior to  
2       September 25th?

3           A.     I don't remember.

4           Q.     Do you remember anything else that  
5       you said to Ms. Perez at any point in terms of  
6       describing her duties and role with the company?

7                   MR. HARZ: In addition to what she's  
8       already testified to?

9                   MR. GRAFF: Yes.

10          A.     I don't remember.

11          Q.     As far as you know -- strike that.

12                   Did anybody else at the company ever  
13       tell you that they themselves had informed  
14       Ms. Perez of what her duties would be and the  
15       nature of her role would be?

16          A.     No.

17          Q.     As far as you know did anyone  
18       other -- strike that.

19                   From the time that Ms. Perez was  
20       offered the job on the day of her interview, as  
21       far as you know did anyone other than yourself  
22       explain to her what her duties would be?

23          A.     I don't think so. I don't know.

24          Q.     Other than that ADP meeting, did you  
25       have any subsequent meetings with Ms. Perez

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1 before her official start date of work?

2 A. Yes.

3 Q. When was the next meeting after the  
4 ADP meeting?

5 A. It was after the ADP meeting. I  
6 don't remember the exact date. I don't remember  
7 the date.

8 Q. Was it an in-person meeting?

9 A. Yes.

10 Q. Where did you meet with Ms. Perez?

11 A. In Secaucus.

12 Q. Why did you have a meeting with  
13 Ms. Perez on that occasion before her official  
14 start date?

15 A. I had concerns about her fitting into  
16 the organization, especially after witnessing  
17 what had happened with ADP, at the ADP meeting.

18 Q. Did you schedule that meeting that  
19 you're referring to for the purpose of sharing  
20 concerns with Ms. Perez?

21 A. Yes.

22 Q. Other than yourself did anyone else  
23 participate in the meeting?

24 A. No.

25 Q. How long was the meeting?

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1 have been that or do you partially remember?

2 MR. HARZ: Don't guess.

3 THE WITNESS: Okay.

4 A. I don't remember.

5 MR. HARZ: Don't guess, please.

6 A. I don't remember.

7 THE WITNESS: I'm sorry.

8 Q. Did Ms. Perez ever say anything to  
9 you about whether she was currently married?

10 A. No.

11 Q. Did Ms. Perez ever say anything to  
12 you about who, if anyone, she lived with?

13 A. Her son.

14 Q. Did she ever communicate to you that  
15 she lived with anyone other than her son in her  
16 residence?

17 A. No.

18 Q. Did Ms. Perez ever refer to her  
19 partner?

20 A. No.

21 Q. Did you ever ask Ms. Perez -- I think  
22 it's implicit from the last question, but I'll  
23 ask it anyway. Did you ever ask Ms. Perez  
24 anything about her partner?

25 A. No.

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1           whether she thought that anyone was of any  
2           gender or sexual orientation?

3           MR. GRAFF: I can discuss it with you  
4           off the record, but I --

5           MR. HARZ: Let's go off the record.

6           MR. GRAFF: Sure.

7           THE VIDEOGRAPHER: We're off the  
8           record now. It's 2:42. Off record.

9           (Discussion held off the record.)

10          THE VIDEOGRAPHER: We're back on at  
11          2:43.

12          BY MR. GRAFF:

13          Q. Ms. Martin, at any point during  
14          Ms. Perez's employment did you form a belief one  
15          way or another as to Ms. Perez's sexual  
16          orientation?

17          A. No.

18          Q. Would you have cared either way if  
19          Ms. Perez would have told you that she was a  
20          lesbian?

21          A. No.

22          Q. Did you at some point in time become  
23          aware that Ms. Perez was a lesbian?

24          A. Yes.

25          Q. Was that before -- strike that.

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1                   At what point in time did you first  
2                  become aware of that?

3                  A.     When she was terminated.

4                  Q.     In what way -- strike that.

5                   How did you become aware at that  
6                  time?

7                  A.     Amber and Lisa told me they thought  
8                  she was.

9                  Q.     Did Amber and Lisa say that before or  
10                 after Ms. Perez's termination?

11                 A.     After.

12                 Q.     Was that the very first time that you  
13                 became aware at all that Ms. Perez was a  
14                 lesbian?

15                 A.     Yes.

16                 Q.     And what did Amber say about  
17                 Ms. Perez being a lesbian at that time?

18                 A.     She said they had had a closed-door  
19                 meeting and she told her she was a --

20                 MR. HARZ: Who told who?

21                 THE WITNESS: Amber.

22                 A.     Amber -- well, Lisa and Amber and I  
23                 were sitting there talking after her termination  
24                 and Amber said, well, I have something to tell  
25                 you, and I said, okay, what is it, and, among

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1                   As best you can -- I can break it  
2       down into a lot of questions, but it might be  
3       easier, let me know if it is, can you explain  
4       the circumstances that led to Ms. Ricciardi's  
5       termination?

6                   A.     Yes.

7                   Q.     Would you, please.

8                   A.     There were several instances.

9       Probably the first was --

10                  THE WITNESS: Can you hear me okay?

11                  THE COURT REPORTER: Um-hmm.

12                  A.     -- was at the Paramus store where  
13       there -- Isabel and Theresa were over there to  
14       watch, to meet the store managers, to observe  
15       how the store runs and the business, and they  
16       attended a huddle, actually they attended two  
17       huddles, and were very rude, combative. One of  
18       the words I heard was crude and insinuated that  
19       Neel, who was the store manager, was not  
20       qualified to run his store. Theresa had  
21       interrupted the meeting a couple of times and  
22       they both had questionable behavior in which I  
23       got phone calls from the sales manager, the  
24       director of sales and the COO.

25                  And then after that meeting, another

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1 day we came back and we had meetings to discuss  
2 recruiting strategy at the Secaucus office and  
3 Theresa and Isabel got into a confrontation in  
4 front of Lisa and Amber and myself and they were  
5 screaming, Isabel and Theresa were screaming at  
6 each other. First Theresa stomped out, slammed  
7 a door. We got that under control and then  
8 Isabel stomped out, slammed a door and quit and  
9 walked out, and we all came back in and more  
10 words were said. Voices were escalated. Store  
11 managers were coming down the hall to find out  
12 what was going on, and that's when the decision  
13 was made.

14 Q. Who proposed at that point in time  
15 terminating her?

16 A. I don't remember.

17 Q. Did you consider terminating  
18 Ms. Perez at that time?

19 A. Actually she kind of resigned and  
20 when I went to talk to her and calmed her down  
21 and said, let's just go back into the conference  
22 room and finish this strategy. I don't think I  
23 really was planning on terminating her, no.

24 Q. Did you encourage her to go back in  
25 because you wanted her to continue her

[Page 211]

1 employment at that time?

2 A. I wanted everybody to get back in  
3 there so we could get a strategy on recruiting.

4 Q. At what -- let me ask it a different  
5 way.

6 You indicated that you then all went  
7 back into the room. Had the decision at that  
8 point already been made to terminate  
9 Ms. Ricciardi?

10 A. No.

11 Q. When was the decision actually made?

12 A. When I -- when I realized we weren't  
13 going to finish that meeting. Everybody went  
14 back into the HR office, we shut the door and  
15 there were discussions.

16 Q. Discussions between who?

17 A. Isabel, myself, and I believe I had  
18 some input from Lisa because Lisa at that point  
19 was discussing recruiting strategy.

20 Q. Did Lisa have any input as to  
21 terminating --

22 A. No.

23 Q. Okay. Was it in the course of  
24 discussions back in the HR office between you  
25 and Ms. Perez that the decision was made to

[Page 212]

1 terminate Ms. Ricciardi?

2 A. Yes.

3 Q. Did you and Ms. Perez discuss how to  
4 effectuate the termination, how you would  
5 actually bring about the end of Ms. Ricciardi's  
6 employment?

7 A. I don't remember the specific  
8 strategy.

9 Q. Did Ms. Perez at the time, as best  
10 you understood it, have the authority to decide  
11 to terminate Ms. Ricciardi without your  
12 approval?

13 A. I gave it to her.

14 MR. HARZ: Listen to the question.

15 A. Tell me what you're saying.

16 MR. HARZ: Answer the question,  
17 please.

18 Q. Did she require your approval to  
19 terminate Ms. Ricciardi?

20 A. Sorry. Did she require my approval.

21 Yes.

22 Q. Did Ms. Perez have the authority at  
23 any point during her employment to terminate any  
24 employees without anybody else's permission?

25 A. No.

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1 Q. Did you need to get anybody's  
2 permission or consent to terminate  
3 Ms. Ricciardi?

4 A. Did I?

5 Q. Yes.

6 A. Ms. Ricciardi?

7 Q. (Nodding).

8 A. No.

9 MR. HARZ: Do we want to go off the  
10 record for you to do what you have to do?

11 THE WITNESS: I'm sorry.

12 MR. HARZ: Let's go off the record  
13 for a second.

14 THE WITNESS: Yeah, thank you.

15 THE VIDEOGRAPHER: We're going to go  
16 off the record. It's 3:04.

17 (Discussion held off the record.)

18 THE VIDEOGRAPHER: We're back on.

19 It's 3:05. You may proceed.

20 BY MR. GRAFF:

21 Q. Were you present when Ms. Ricciardi  
22 was informed of her termination?

23 A. Yes.

24 Q. Did you inform her of the  
25 termination?

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1 A. No.

2 Q. Who informed her?

3 A. Isabel.

4 Q. Where were the three of you located  
5 when --

6 A. In the HR department.

7 Q. Was anybody else present for that  
8 meeting?

9 A. Lisa.

10 Q. Anybody else?

11 A. Amber was in there.

12 Q. At the time of the termination they  
13 were both there?

14 A. No.

15 Q. Was anybody else a part of the  
16 discussion --

17 A. No.

18 Q. Just for the record, if I could  
19 finish the question. Was anybody else part of  
20 the discussion that included Ms. Ricciardi's  
21 termination?

22 A. No.

23 Q. Did you have any further discussions  
24 with Ms. Perez concerning Ms. Ricciardi after  
25 Ms. Perez told her she was terminated?

[Page 221]

1 discussion?

2 A. He asked me to give it some great  
3 thought to determine if her fit within the  
4 organization was really a good one.

5 Q. Did Mr. Scott say anything else to  
6 you during that discussion with respect to  
7 Ms. Perez that you can recall?

8 A. No.

9 Q. When is the next time, if ever, that  
10 you received any further information from  
11 anybody about Ms. Perez and Ms. Ricciardi's  
12 visit to the Paramus store?

13 A. I received an e-mail.

14 Q. From whom?

15 A. Mr. Scott.

16 Q. How many days or hours had passed  
17 from the time of your spoken communication with  
18 Mr. Scott and your receipt of that e-mail?

19 A. I don't know the exact days.

20 Q. Was it more than one day?

21 A. Yes.

22 Q. Did Mr. Scott in that e-mail  
23 communicate any new information to you?

24 A. Yes.

25 Q. What was the new information?

[Page 222]

1 A. Terminate Isabel Perez.

2 Q. Did Mr. Scott indicate in that e-mail  
3 why it was that he had moved from suggesting  
4 that you give it some thought to actually  
5 directing you to conduct the termination?

6 A. He also heard about the big arguments  
7 in the conference room from the Secaucus store  
8 managers.

9 Q. Was that something that you had  
10 communicated with Mr. Scott about at all prior  
11 to receiving that e-mail?

12 A. No.

13 Q. Did Mr. Scott in his e-mail indicate  
14 any other reasons apart from the Paramus store  
15 visit and the Secaucus conference room argument?  
16 Is there anything else that he indicated as a  
17 basis for thinking Ms. Perez should be  
18 terminated?

19 A. No.

20 Q. Did you respond to the e-mail?

21 A. Yes.

22 Q. Did you respond by e-mail?

23 A. No.

24 Q. In what way did you respond?

25 A. I terminated Ms. Perez.

[Page 223]

1 Q. Did you respond to Mr. Scott in  
2 connection with his e-mail?

3 A. No.

4 Q. How much time passed between when you  
5 received the e-mail and when you terminated  
6 Ms. Perez?

7 A. I don't remember.

8 Q. Did you have any communication with  
9 anyone -- apart from Mr. Scott's e-mail, did you  
10 have any communications with anyone about the  
11 anticipated termination of Ms. Perez prior to  
12 conducting it?

13 A. No.

14 Q. Apart from the discussion with  
15 Mr. Scott and the e-mail from Mr. Scott, did you  
16 have any other communications with him  
17 concerning Ms. Perez's potential or actual  
18 termination prior to terminating her? I'll  
19 reask that.

20 Other than the discussion that you  
21 already referenced with Mr. Scott and  
22 Mr. Scott's e-mail, did you have any other  
23 communications with him --

24 MR. HARZ: Listen to his question.

25 Q. -- about terminating Ms. Perez before

[Page 226]

1 Q. Okay. Let's focus on the day of  
2 Ms. Perez's termination. Had you indicated to  
3 Ms. Perez in any way prior to your actual  
4 termination meeting that you had given any  
5 consideration to the possibility of terminating  
6 her?

7 A. No.

8 Q. As far as you know did anybody  
9 indicate in any way to Ms. Perez prior to her  
10 termination --

11 A. No.

12 Q. Did you ask Ms. Perez to come to your  
13 office at some point on the day of her  
14 termination?

15 A. Yes.

16 Q. And what was the date, if you recall?

17 A. October 8th.

18 Q. Did you meet with Ms. Perez on the  
19 morning of October 8th?

20 A. Yes.

21 Q. Was that in a scheduled meeting or  
22 something else?

23 A. No.

24 Q. Did you ask her to come to your  
25 office for that meeting?

[Page 227]

1 A. Yes.

2 Q. Other than you and Ms. Perez, was  
3 anyone else present?

4 A. Yes.

5 Q. Who else?

6 A. Alfred.

7 Q. Who is Alfred?

8 A. He's the store manager at Secaucus.

9 Q. Is his last name Nunez?

10 A. Nunez, yes.

11 Q. Was there any particular reason why  
12 Mr. Nunez was present for that meeting?

13 A. Yes.

14 Q. Why?

15 A. As a witness.

16 Q. Did you ask him to be present for  
17 that purpose?

18 A. Yes.

19 Q. Was there any official policy or  
20 practice that you were aware of at Ashley  
21 Furniture concerning the presence of a witness  
22 in termination meetings?

23 A. Say it again.

24 Q. Why did you want there to be a  
25 witness for Ms. Perez's termination meeting?

[Page 228]

1           A.     It's usually wise that you have  
2        someone with you when you terminate.

3           Q.     Does Ashley have any policies or  
4        practices that you're familiar with that would  
5        require or direct the presence of a witness?

6           A.     Practices.

7           Q.     Was there any particular reason you  
8        selected Mr. Nunez as a witness rather than any  
9        other person?

10          A.     Yes.

11          Q.     Why?

12          A.     He's a store manager.

13          Q.     If you can walk me through what  
14        happened during that meeting. Who spoke first?

15           MR. HARZ: You mean the termination  
16        meeting?

17           MR. GRAFF: Yes.

18          A.     I did.

19          Q.     And what did you say to start off?

20          A.     I had written a statement that I  
21        read.

22          Q.     When did you write that statement?

23          A.     That morning.

24          Q.     Was that -- strike that.

25           Had you ever prepared a written

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1 statement for purposes of a person's termination  
2 prior to that occasion? Had you ever read from  
3 a written statement in a termination meeting  
4 before?

5 A. Before?

6 Q. Before Ms. Perez's case.

7 A. Yes.

8 Q. When you drafted the written  
9 statement that you read to Ms. Perez, were you  
10 working off of a template or a draft that you --

11 A. No.

12 Q. Was it a handwritten statement?

13 A. No.

14 Q. Typewritten?

15 A. Yes.

16 Q. How long did it take you to read the  
17 written statement?

18 A. I don't know.

19 Q. Was it less than one page long?

20 A. Yes.

21 Q. Did anybody review the written  
22 statement before you read it to Ms. Perez?

23 A. No.

24 Q. Was there any particular reason why  
25 you read from a written statement rather than

[Page 230]

1 speaking extemporaneously?

2 A. Yes.

3 Q. Why?

4 A. Not to be carried off in any  
5 discussion.

6 Q. Was there any particular reason why  
7 in the case of Ms. Perez's termination but not  
8 all terminations you wanted to use a written  
9 statement?

10 A. Yes.

11 Q. Why?

12 A. Because I knew she was a combative,  
13 aggressive person.

14 Q. Had you ever at any point during  
15 Ms. Perez's employment spoken to her about your  
16 perception that she was combative or aggressive?

17 A. Yes.

18 Q. When did you first speak with her  
19 about that?

20 A. I don't remember.

21 MR. HARZ: In addition to what she's  
22 already testified to? Because there's been  
23 a great deal of testimony by Ms. Martin in  
24 that regard.

25 Q. Other than what's already come out,

[Page 231]

1        were there any other occasions prior to her  
2        termination on which you discussed with  
3        Ms. Perez your perception that she was  
4        combative?

5              A.       No.

6              Q.       What happened after you read the  
7        written statement?

8              A.       She wanted to discuss it.

9              Q.       Did she speak?

10          A.       Yes.

11          Q.       Did you say anything other than what  
12        was in the written statement before Ms. Perez  
13        began to speak?

14          A.       No.

15          Q.       What did Ms. Perez say?

16          A.       I don't remember.

17          Q.       Do you remember anything she said?

18          A.       She cried.

19          Q.       Do you remember anything she said at  
20        all during the course of that meeting?

21          A.       She kept asking why.

22          Q.       Did you provide her with any further  
23        explanation as to why she was being terminated?

24          A.       No.

25          Q.       Is there any particular reason why

[Page 232]

1 you did not explain more information on that?

2 A. I did not want to get into a  
3 discussion.

4 Q. How long was the meeting in total?

5 A. I don't know.

6 Q. Was it more or less than 30 minutes,  
7 if you can say?

8 A. Less.

9 Q. Was it more or less than 15 minutes,  
10 if you can say?

11 A. I don't know.

12 Q. Did Mr. Nunez say anything during the  
13 meeting?

14 A. No.

15 Q. Did Mr. Nunez know before the meeting  
16 started what the purpose of it would be?

17 A. No.

18 Q. Did Mr. Nunez ever say anything to  
19 you about that termination meeting?

20 A. No.

21 Q. Did Mr. Nunez ever after the meeting  
22 say anything to you about Ms. Perez?

23 A. No.

24 Q. Other than crying and asking why, do  
25 you recall anything else that Ms. Perez

[Page 233]

1       communicated during that meeting?

2           A.     She felt like it wasn't fair.

3           Q.     Anything else?

4                   MR. HARZ: If you remember.

5           A.     She tried to speak to Mr. Nunez and  
6       crying. That was it.

7           Q.     Apart from reading the written  
8       statement, did you say anything else to  
9       Ms. Perez during the meeting?

10          A.     Yes.

11          Q.     What else did you say to her?

12          A.     We need the keys, we need our laptop  
13       and I need her to exit the building.

14          Q.     Did you say anything else?

15          A.     I don't remember.

16          Q.     And did -- how did Ms. Perez respond  
17       when you indicated that you needed the keys and  
18       the laptop?

19          A.     She cried.

20          Q.     Did she provide those items to you?

21          A.     Yes.

22          Q.     Did she ultimately exit the building?

23          A.     Oh, yes.

24          Q.     Was she escorted out by security?

25          A.     No.

[Page 234]

1 Q. Did she scream or make any sort of  
2 scene on her way out?

3 A. She spoke to Lisa and Amber and left.

4 Q. Were you present when she spoke to  
5 Lisa and Amber? That is did you hear her  
6 speaking to them?

7 A. No.

8 Q. Do you know how much time she spent  
9 speaking to them before she left the building?

10 A. Sixty seconds. I don't know.

11 Q. Did Lisa and Amber tell you what it  
12 was that they -- did Lisa or Amber ever tell you  
13 what they had discussed?

14 A. Yes.

15 Q. Who told you?

16 A. Lisa and Amber.

17 Q. What did they say?

18 A. She said she was going to, number  
19 one, go to the police and, number two, file a  
20 lawsuit.

21 Q. Just so I'm clear, Lisa and Amber  
22 said that Ms. Perez said that she --

23 A. That Ms. Perez said.

24 Q. Did Lisa and Amber indicate to you,  
25 tell you that Ms. Perez had said anything to

# EXHIBIT C

[Page 1]

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

-----X

ISABEL PEREZ,

Plaintiff,

Case No.

13 Civ. 327 (DMC) (MF)

v.

FACTORY DIRECT OF SECAUCUS,  
LLC d/b/a ASHLEY FURNITURE  
HOMESTORE, EUGENE CHRINIAN,  
in his official and  
individual capacities, and  
KATHY MARTIN, in her  
official and individual  
capacities,

Defendants/Third-  
Party Plaintiffs,

v.

THE OTTINGER FIRM, P.C.

-----X

VIDEOTAPED DEPOSITION of EUGENE CHRINIAN,  
held at the offices of ARCHER & GREINER, P.C.,  
Court Plaza South, West Wing, 21 Main Street,  
Suite 353, Hackensack, New Jersey, Pursuant to  
Notice, before Beth Radabaugh, a Certified  
Shorthand Reporter and Notary Public of the  
State of New Jersey, on Friday, July 19, 2013,  
commencing at 9:58 a.m.

[Page 12]

1           So that would have been just --

2       whatever is in the complaint would have been a  
3       general conversation.

4       Q.     Prior to receiving the complaint, did  
5       you know one way or another if Ms. Perez was a  
6       lesbian?

7       A.     No.

8       Q.     Had you ever had any communication  
9       with anybody about whether or not Ms. Perez was  
10      or was not a lesbian?

11      A.     No, I didn't know she was a lesbian.

12      Q.     Did you ever have any communications  
13      with anybody about her marital status?

14      A.     No.

15      Q.     Did you know one way or another if  
16      Ms. Perez was married prior to receiving the  
17      complaint?

18      A.     It's irrelevant.

19      Q.     Did you know?

20      A.     No.

21      Q.     Did Ms. Martin indicate that there  
22      was any factual basis for Ms. Perez's  
23      allegations of discrimination?

24      A.     Repeat that question.

25      Q.     Did Ms. Martin indicate that there

[Page 31]

1 was more interested in the title than she was  
2 her responsibility to be embodied in the things  
3 that we stand for.

4 Q. Was Ms. Perez hired to fill the same  
5 position that Ms. Bautista had held?

6 A. Yes.

7 Q. Same scope of duties?

8 A. Yes. But she wanted to be called  
9 director of human resource as opposed to human  
10 resource manager.

11 MR. HARZ: Could you refer to who the  
12 she is.

13 A. Isabel. And we obliged that and it  
14 was the first indication that she may not be a  
15 good fit.

16 Q. And when did that request come up?

17 A. Sometime during the initial offer.  
18 Probably before she accepted employment or  
19 thereabouts.

20 Q. How did you first come to hear the  
21 name Isabel Perez?

22 A. Through the interview process.

23 Q. Did you select Ms. Perez as a  
24 candidate to be interviewed?

25 A. I didn't select her as a candidate to

[Page 36]

1           A.     I ask similar questions with every  
2 candidate. So...

3           Q.     How did the interview start? That is  
4 did you begin by talking about the company and  
5 the nature of the job or did you begin by asking  
6 her questions about herself or something else?

7           A.     Typically we just start an interview  
8 on a little bit of an ice breaker. So we would  
9 talk a little bit about ourselves and so tell me  
10 a little bit about Isabel. That's all.

11          Q.     As best you could remember -- strike  
12 that.

13          As you sit here today do you remember  
14 anything in particular that Ms. Perez said  
15 during the interview that stuck in your mind?

16          A.     She made reference to a Bible verse  
17 that I have on the wall.

18          Q.     What Bible verse do you have on the  
19 wall?

20          A.     A Bible verse that references seeking  
21 God's kingdom first. Right behind my desk it's  
22 on the wall and she questioned me about that  
23 plaque on my wall.

24          Q.     Okay. So when you're referring to  
25 the Bible verse on the wall, is it in the nature

[Page 37]

1 of like artwork?

2 A. It's a plaque, yes. It's a wood  
3 engraved plaque that goes right over my desk.

4 Q. What did Ms. Perez ask about it?

5 A. She made reference to it and she  
6 said, are you a Christian.

7 Q. How did you respond to that question?

8 A. I said, yes, I am, and then she  
9 responded, I'm an Episcopal minister, and I  
10 responded, that's great, so you're also a  
11 Christian. She said yes, and then we continued  
12 the interview process.

13 Q. Was anything else on the subject of  
14 religion said by either of you during that  
15 interview?

16 A. She questioned the plaque, as I just  
17 said, and exactly what I just said is what took  
18 place and then we just continued the interview  
19 process.

20 Q. Apart from what you've already  
21 described, did religion --

22 A. No.

23 Q. -- come up at all at any other point  
24 in the interview?

25 A. No.

[Page 42]

1       through Kathy that Isabel wasn't content with  
2       the position, the title of the position, which  
3       was the first indication to me that she was not  
4       going to -- potentially not going to be a good  
5       fit.

6           Q.     Between Ms. Perez leaving at the end  
7       of your interview and the discussion that you  
8       just referenced with Ms. Martin about the job  
9       title, so between those two points in time, did  
10      you have any communications with anyone about  
11      Ms. Perez?

12       A.     Can you please restate that question.

13       Q.     Sure.

14       A.     Between what periods of time?

15       Q.     I'll ask it in a different way.

16       After Ms. Perez left at the end of her  
17      interview, when is the next time that you had  
18      any communication with anyone about Ms. Perez?

19       A.     I would have spoken to Kathy at that  
20      point, as I stated, Kathy, I agree, let's move  
21      forward. The next time I would have had any  
22      conversation was likely over this matter because  
23      as we made the offer, again, as I said, it was  
24      the first indication that she was not going to  
25      be a good fit. She was more concerned about her

[Page 43]

1 title than the responsibility but we obliged it.

2 Q. And did Ms. Martin tell you

3 specifically what title Ms. Perez wanted to  
4 have?

5 A. She wanted director of human  
6 resources as opposed to human resource manager.

7 Q. Did Ms. Martin explain to you why it  
8 was that Ms. Perez was requesting that  
9 particular title or just --

10 A. I don't recall if she explained why.  
11 She just said it was a request made by Perez.

12 Q. What did you say to Ms. Martin in  
13 response to her bringing that up with you?

14 MR. HARZ: Objection. If you  
15 understand the question. I don't  
16 understand the question.

17 Q. When Ms. Martin told you that  
18 Ms. Perez wanted that title

19 A. That would have raised the concern.  
20 If someone -- I've said it three times now. If  
21 someone to me is more important about their  
22 title, it's potentially not a good fit. So I  
23 would have said if we can -- if this is  
24 something we can accommodate that makes her, you  
25 know, feel more comfortable, we'll discuss

[Page 44]

1       accommodating it, but, again, it's just that  
2       it's an indication that it may not be a good  
3       fit.

4           Q.     So you told Ms. Martin that you saw  
5       it as an indication that it wouldn't be a good  
6       fit?

7           A.     Whether I specifically had it on  
8       that -- had that conversation with Mrs. Martin,  
9       I know with any candidate that comes up, if that  
10      type of situation comes up, that's the way I  
11      would respond to it.

12          Q.     Prior to Ms. Perez starting work at  
13      your company, did you express any other concerns  
14      about possible red flags or potential --

15          A.     That was the only -- that was the  
16      only engagement prior to her starting was the  
17      offer process and the fact of the title. So  
18      there was nothing else to talk about. There was  
19      no other feedback.

20          Q.     Other than that communication with  
21      Ms. Martin about title, did you have any other  
22      communication with anyone prior to Ms. Perez  
23      starting the job?

24          A.     Again, I've answered that three  
25      times. I said no.

[Page 45]

1 Q. Okay. Who did Ms. Perez report to as  
2 director of HR? That is who were her  
3 supervisors?

4 A. She reported to Kathy.

5 Q. Anyone else?

6 A. Kathy reports to me. But Kathy had  
7 no discretion on hiring or firing anybody in a  
8 leadership position like that.

9 Q. Were there any positions over which  
10 Ms. Kathy Martin did have discretion to fire  
11 employees without anyone else's approval?

12 A. She would partner with Mark Scott if  
13 it was anybody store related through a  
14 corrective action process. So she would partner  
15 with Mark, but anybody in a leadership role, at  
16 that level she had no authority.

17 Q. Did Ms. Martin have authority to  
18 terminate any employees without partnering with  
19 Mr. Scott?

20 A. By the nature of the reporting  
21 process any -- any corrective action would have  
22 naturally gone through Mark to get to Kathy. So  
23 they would have collaborated on it.

24 Q. Apart from your interview with  
25 Ms. Perez, did you during her employment have

[Page 46]

1 any communications with her directly?

2 A. With Perez?

3 Q. Yes.

4 A. I believe I only actually saw her one  
5 time in the eight to ten days she was with us.  
6 Physically once.

7 Q. And in what context did you see her  
8 on that occasion?

9 A. I was in Secaucus. She was in  
10 Secaucus. She had been out the previous day and  
11 in passing I said, how you doing, and prior to  
12 that, the day before she was -- she had to go to  
13 the hospital for something. So I was concerned  
14 about her and I asked her how she was doing.

15 Q. Was that the extent of your  
16 communication with her?

17 A. Yes. It was approximately five  
18 minutes.

19 Q. That was the only face-to-face  
20 communication you had with her during her  
21 employment?

22 A. Over the course of the ten days  
23 that's the only one I recall. She may have been  
24 in the building, in another building, but I  
25 don't recall any other conversation directly.

[Page 102]

1 focuses on marriage and family life.

2 Q. Does Family Life have anything to do  
3 with business?

4 A. No.

5 Q. Okay. Are you a member of  
6 Family Life?

7 A. No.

8 Q. Do you have any involvement with the  
9 Family Life organization?

10 A. Be more specific, please.

11 Q. Other than being familiar with it as  
12 a Christian ministry that focuses on marriage,  
13 do you do anything, receive any information from  
14 Family Life?

15 A. No. Receive any information from --

16 Q. For example, do you attend events  
17 that they hold or lectures or seminars?

18 A. I have not.

19 Q. Do you know one way or another  
20 whether any employees of your company are  
21 homosexual?

22 A. Do I know one way -- please restate  
23 the question.

24 Q. To your knowledge are there any  
25 homosexual employees of your company?

[Page 103]

1 A. Current or past?

2 Q. Current.

3 A. Yes.

4 Q. How is it that you are aware of the  
5 fact that there are homosexual employees at the  
6 company?

7 A. Because the employee makes it known.

8 Q. Do you care or is it of any interest  
9 to you either way whether an employee is  
10 homosexual or not?

11 A. We've had many over the years and we  
12 look for quality people, employees and it makes  
13 absolutely no difference what -- homosexual or  
14 gay has no bearing on their employment status.

15 Q. Did you ever pray with Ms. Perez?

16 A. No.

17 Q. Do you have a prayer group or a  
18 regular practice of praying with any employees  
19 at your company?

20 A. No.

21 Q. I'm going to pass to you a document  
22 that was marked as Exhibit Chriniian 2, two pages  
23 Bates stamped ASH-PER-93 and 94. If you could  
24 please take a moment to review the document and  
25 let me know when you've had a chance to do that.

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1                   MR. GRAFF: Mr. Chriniyan, thank you  
2                   for your time today. Subject to any  
3                   follow-up on any questions that your  
4                   counsel might have, I have nothing further.

5                   MR. HARZ: Yeah, I have questions.

6                   EXAMINATION BY

7                   MR. HARZ:

8                   Q.     Mr. Chriniyan, I'm going to call your  
9                   attention to Chriniyan 1. It's the Ashley  
10                  Furniture HomeStore Employee Resource Guide  
11                  about which Mr. Graff asked certain questions  
12                  and I call your attention to page seven. He  
13                  asked you questions relating to the section  
14                  entitled Reporting Harassment and Investigation.  
15                  Do you see that section?

16                  A.     Yes.

17                  Q.     Reporting Harassment and  
18                  Investigation. He asked --- well, I forget who  
19                  read it into the record, but either you or he  
20                  read into the record the first sentence and then  
21                  the second sentence. The second sentence reads  
22                  again "If you believe you are being harassed or  
23                  have observed harassment, you should promptly  
24                  inform human resources or any senior member of  
25                  management within the organization." Do you see

[Page 115]

1       that sentence?

2           A.     Yes.

3           Q.     For a position such as that held by

4        Isabel Perez, you referred to it as an HR  
5        generalist, we called it another title as well,  
6        other than Kathy Martin, who would have been  
7        considered a member of senior management for a  
8        position like that held by Isabel Perez?

9           A.     Mark Scott, myself.

10          Q.     Anyone else?

11          A.     Frank Passanate, who's our CFO, would  
12        certainly have been considered senior.

13          Q.     Anyone else?

14          A.     There's other managers, but if you're  
15        really senior, it would be them.

16          Q.     Those three --

17          A.     Yes.

18          Q.     -- would be considered senior?

19           Did -- or do you know whether or not  
20        Ms. Perez ever complained to Mark Scott about  
21        harassment?

22          A.     She never complained to Mark Scott  
23        about harassment.

24          Q.     Do you know whether or not Ms. Perez  
25        ever complained to Mark Scott about any

[Page 116]

1 employment discrimination?

2 A. She did not.

3 Q. Did Ms. Perez ever complain to you  
4 about harassment?

5 A. Never.

6 Q. Did Ms. Perez ever complain to you  
7 about employment discrimination?

8 A. No.

9 Q. Do you know whether or not Ms. Perez  
10 ever complained to Frank Passanate about  
11 harassment?

12 A. She did not.

13 Q. Do you know whether or not Ms. Perez  
14 ever complained to Frank Passanate about  
15 employment discrimination?

16 A. She did not.

17 MR. HARZ: I have no further  
18 questions.

19 MR. GRAFF: I have nothing further.  
20 We can go off the record and adjourn.

21 THE VIDEOGRAPHER: We're off the  
22 record at 12:24.

23 (The deposition is adjourned at  
24 12:24 p.m.)

25

# EXHIBIT D

FEB 07 2014

CONFIDENTIAL COPY

1           UNITED STATES OF DISTRICT COURT  
2           FOR THE DISTRICT OF NEW JERSEY  
3           CIVIL ACTION NO.: 2:13-cv-00327 (DMC-MF)

-----x

4           ISABEL PEREZ,

5           Plaintiff,

6           -vs-

7           FACTORY DIRECT OF SECAUCUS,  
8           LLC d/b/a ASHLEY FURNITURE  
9           HOMESTORE, EUGENE CHRINIAN,  
in his official and individual capacities, and KATHY  
MARTIN, in her official and individual capacities,

10          Defendants/Third-party Plaintiffs,

11          -vs-

12          THE OTTINGER FIRM, P.C.,

13          Third-party Defendant.

14          \_\_\_\_\_/ January 24, 2014  
Hackensack, N.J.

16          DEPOSITION OF:

17           THERESA RICCIARDI

18

19

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34

1 Q. Okay. Who is your attorney?  
 2 A. Leonardo Puig.  
 3 Q. Can you spell the last name?  
 4 A. P-u-i-g.  
 5 Q. P-u --  
 6 A. P-u-i-g.  
 7 Q. Oh, P-u-i-g as in George?  
 8 A. Yes.  
 9 Q. On October 5th, 2012 you attended a  
 10 meeting at the Ashley Secaucus store with regard  
 11 to recruiting at which Kathy, Isabel, Amber  
 12 Dominguez, and Lisa Thorpe were present. Isn't  
 13 that correct?  
 14 A. Yes.  
 15 MR. GRAFF: Objection.  
 16 Q. Okay. Now, earlier you testified,  
 17 quote, you said about Isabel Perez, quote, she  
 18 never gave me any kind of problem. That was your  
 19 testimony.  
 20 A. She never did with those times that  
 21 you've mentioned.  
 22 Q. Okay. I'm going to call your  
 23 attention to the October 5th --  
 24 A. Yes.  
 25 Q. -- 2012 meeting at the Secaucus

36

1 in the back, and I sat further up to the left of  
 2 the room, and there was a laptop there, and then  
 3 I got up again, because every time I kept turning  
 4 around she was just there and she was staring at  
 5 me like with such angry eyes.  
 6 Q. Who is the "she"?  
 7 A. I'm sorry. Isabel Perez. And she  
 8 made me feel so uncomfortable and it was getting  
 9 me very upset emotionally because I didn't  
 10 understand what was going on and I don't like any  
 11 confrontation when I'm at work. I like to come  
 12 in and do my job and then be on my way, and, you  
 13 know, I went outside and I was trying to talk to  
 14 Kathy again but she was on the phone again, and  
 15 then I came back in and I ended up sitting  
 16 somewhere else. I didn't even go back to sit  
 17 where the laptop was, and then I guess from what  
 18 I remember, when Kathy finally spoke with me --  
 19 or was it Lisa? I think it might have been Lisa.  
 20 Lisa was asking me if I broke the laptop. I  
 21 said, "Excuse me"? Because I didn't break  
 22 anything, and I do remember after like I went  
 23 outside and came back in, Isabel was already in  
 24 my seat. That's why I didn't sit in that seat  
 25 where the laptop was, because she actually went

35

1 store regarding recruiting. You had a  
 2 disagreement with Isabel during that meeting.  
 3 Correct?  
 4 A. I believe there was some kind of a  
 5 friction going on between -- yes.  
 6 Q. Thank you. What specifically was  
 7 said by her, by you? Could you explain to us  
 8 what happened?  
 9 A. I don't remember exactly what she  
 10 said to me, but I know that once I sat next to --  
 11 it wasn't Amber. What was the other? Lisa?  
 12 When I sat next to Lisa, who was the other  
 13 recruiter, she started to get very upset --  
 14 Q. Who starts to get very upset?  
 15 A. I'm sorry. Isabel seemed upset and  
 16 bothered some. I didn't know what was going on.  
 17 She became very agitated at me. I didn't  
 18 understand what was wrong, and I briefly  
 19 mentioned it to Kathy too.  
 20 Kathy was back and forth from in the  
 21 meeting, leaving the room and taking a phone call  
 22 a couple of times. I don't remember how many  
 23 times it was. It made me feel so uncomfortable  
 24 that I didn't even want to sit next to Lisa that  
 25 I got up and I went and I sat -- because we were

37

1 and decided to sit there where I was. So I ended  
 2 up going, moving back to the back of the room,  
 3 and I didn't want to be anywhere around her at  
 4 that moment because she was making me feel  
 5 uncomfortable because you can just tell by her  
 6 body language and her facial expressions that she  
 7 was, you know, angry and agitated almost like as  
 8 if she was being territorial of me. You know, I  
 9 didn't understand where this behavior was coming  
 10 from.  
 11 Q. Her voice was raised to you during  
 12 that time. Is that correct?  
 13 A. I believe she did raise her voice  
 14 at me. She did. I don't remember exactly what  
 15 she said. Trying to go back and in thinking  
 16 about everything, I really can't remember. I  
 17 mean if you have something to help me jog my  
 18 memory, I'm more than welcome to listen to it,  
 19 but she did raise her voice. I don't know what  
 20 exactly she said to me though. I can't really  
 21 remember. I honestly can't remember.  
 22 Q. Isabel left the room, didn't she?  
 23 A. I know that I was going out because  
 24 I was trying to talk to Kathy, and I think she  
 25 went and she left the room as well too. I don't

	38		40
1	know how many times it was done.	1	sorry. Is that what you asked me?
2	Q. You mean she later came back?	2	Q. Other than on October 5th or
3	A. I believe she did.	3	anything else you testified to, did you have any
4	Q. And at that point she and you began	4	other disagreements with Isabel?
5	to argue again. Correct?	5	A. I didn't have any disagreements
6	MR. GRAFF: Objection.	6	with her. There was an incident at the Paramus
7	A. I don't remember if we argued	7	store location. We were in the back office and
8	again. I honestly don't.	8	it was towards the end of the day and, you know,
9	Q. Didn't she yell at you, quote, you	9	she was sitting at one desk to the right and I
10	have to listen to me, I'm the H.R. director, I'm	10	was sitting at the desk at the left, and she
11	the H.R. director? Do you recall?	11	started talking about, you know, her personal
12	MR. GRAFF: Objection.	12	life, and then she started crying, and what I
13	A. She did. Now that I remember, she	13	mean by her personal life, about an incident that
14	did.	14	happened with her late brother passing away, so
15	Q. And you also, you mentioned that	15	she got emotional. She was talking about that,
16	you left the room. What specifically caused you	16	and I felt really bad for her, you know, and I
17	to leave the room?	17	went and I gave her a box of tissues that were in
18	A. The fact that she was making me	18	the office and, you know, I told her that, yes,
19	feel so uncomfortable because of her behavior and	19	it's hard, you know, when somebody that you love
20	her tone of voice, and I didn't understand where	20	passes away. I said, "I've been through the same
21	this was coming from.	21	thing, my father passed away, but you always have
22	Like I said, I saw a complete change in her	22	to think of it as they're in a better place."
23	once I decided to sit next to Lisa, the other	23	Q. And do you recall what she said
24	recruiter. You know, we're supposed to be	24	about her personal life?
25	working together. We're supposed to be helping	25	A. She was going about and telling me
	39		41
1	to recruit, you know, for the company, and she's	1	a story about her brother. The way that he
2	basically my work partner, you know, where we	2	passed away was that he was stopped at a light
3	can, you know, just jog, or, you know, bring up	3	and he was carjacked and they put a gun to his
4	ideas with each other as far as recruiting, but	4	head and they shot her brother.
5	it did, it made me feel very uncomfortable.	5	Q. Did she tell you anything else
6	Q. You were discharged by Ashley later	6	about her personal life at that time?
7	that day. Correct?	7	A. No. That was the only reason why
8	A. Yeah, I was. And I was in -- I'm	8	she was upset and crying from what I saw, from
9	sorry. No, I was just in shock. I didn't	9	what she told me.
10	understand where this was all coming from and why	10	Q. Do you recall when this was at the
11	this happened. It really wasn't explained to me.	11	Paramus store?
12	Q. Do you know why you were	12	A. I don't remember the exact date. I
13	discharged?	13	really don't. I'm sorry.
14	A. I don't remember exactly why. I	14	Q. That's okay.
15	know I was trying to talk to Kathy about it, and	15	A. I don't remember.
16	Kathy kept telling me not to worry about it, that	16	Q. Were you ever present when Isabel
17	she would be in touch with me, she needed to look	17	had difficulty with any other employees?
18	into it some more. I said okay.	18	A. Hmm, I remember her coming out of
19	So I was thinking that I was going to get	19	her office and I was at my cubicle. My cubicle
20	rehired back by them, but I never did.	20	was towards the entrance and exit towards the
21	Q. Other than the incident on October	21	back in Secaucus, and like I said, her office was
22	5th that we just discussed, the recruiting	22	here to the left and I would face it, and Kathy's
23	meeting, did you have any other disagreements	23	office was to the right. Lisa was to the right
24	with Isabel?	24	of me, and to the right of Lisa was Amber.
25	A. .... After October 5th? I'm	25	I don't remember if Amber was there or not,

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1 but maybe she might have been, but I remember  
 2 Isabel coming out enraged pointing her index  
 3 finger at Lisa. I think, yeah, Amber was there  
 4 now that I remember, and she said something to  
 5 the effect of.... I'm trying to remember her  
 6 exact words. Pretty much scolding them I guess  
 7 because the girls were giggling and laughing, and  
 8 I can't remember exactly what she said, but I  
 9 know towards the end of that conversation, "If  
 10 you guys want to talk about how much everybody  
 11 gets paid," she goes, "I'll tell you right now  
 12 how much I get paid," and she mentioned a figure.  
 13 It was in the 90s, 90,000 and change. I can't  
 14 remember exactly what it was.

15 Q. When you say Isabel was scolding,  
 16 what do you mean?

17 A. Lisa and Amber.

18 Q. And was she raising her voice?

19 A. Raising her voice, she was raising  
 20 and pointing her index finger at them. I looked  
 21 up because my laptop was right here facing  
 22 Kathy's office and Isabel's office, and when I  
 23 saw her come out and started pointing her finger  
 24 at Lisa and then at Amber, and she was waving it  
 25 like this, you know, back and forth from right to

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1 Q. Do you recall Isabel having any  
 2 difficulty or any other difficulty with either  
 3 Amber or Lisa? By the way, when I say Amber and  
 4 Lisa, it's Amber Dominguez and Lisa Thorpe?

5 A. Yes.

6 Q. Thank you. Do you recall Isabel  
 7 having any other difficulty with either/or both  
 8 of them?

9 A. She did mention to me that she  
 10 wanted to have the both of them replaced.

11 Q. Isabel mentioned that to you?

12 A. Yes. She mentioned to me that she  
 13 wanted to have Amber and Lisa replaced.

14 Q. Did she say why?

15 A. No. She didn't tell me why.

16 Q. Do you recall where you were when  
 17 Isabel said that to you?

18 A. I think I was in her office. I was  
 19 in her office, and I was having issues with the  
 20 fax outside where my cubicle was, so I would use  
 21 her fax in her office because I had to fax  
 22 something over, but I think that's when it took  
 23 place. That's when it definitely took place.

24 Q. Do you recall when that was?

25 A. I don't remember the exact date or

43

1 left, left to right at the two of them, I, you  
 2 know, my eyes just opened up wide and my jaw  
 3 dropped. I was in shock, and I thought it was  
 4 inappropriate, you know, and it made me nervous  
 5 and uncomfortable to see that because that's not  
 6 an appropriate thing to do when you need to  
 7 reprimand an employee in my opinion for  
 8 something. And I didn't even see them doing  
 9 anything wrong. They were just laughing and  
 10 giggling between the two of them, so I don't....

11 Q. Okay. When you say "they" were  
 12 just laughing and giggling, who do you --

13 A. Amber and Lisa were laughing and  
 14 giggling.

15 Q. Do you recall over what they were  
 16 laughing and giggling, about what?

17 A. I wasn't paying attention. I was  
 18 focused on the laptop. I really don't remember.

19 Q. Were you ever present when Isabel  
 20 had difficulty with any other employee?

21 A. I don't remember. I mean if you  
 22 have something to help me jog my memory, you  
 23 know, then, you know, I'll talk about it, but I'm  
 24 thinking and I'm really -- not for those things  
 25 that I've mentioned, I don't remember.

45

1 time. I really don't. It was obviously in the  
 2 time frame that I was working for them, for  
 3 Ashley.

4 Q. Do you recall any other difficulty  
 5 that Isabel had with Amber and/or Lisa?

6 A. I don't. I don't remember.  
 7 Honestly I really don't.

8 Q. Were you ever told by anyone that  
 9 Isabel had difficulty with another employee?

10 A. No. I don't remember.

11 MR. HARZ: Okay. Let's take a two-  
 12 minute break. Off the record.

13 (There is a brief recess.)

14 MR. HARZ: Okay. I have no further  
 15 questions.

16 EXAMINATION BY MR. GRAFF:

17 Q. I know you've answered a lot of  
 18 questions already. I just have some brief  
 19 follow-up which shouldn't take long.

20 A. Sure.

21 MR. HARZ: I'm having difficulty  
 22 hearing you and I'm right here.

23 Q. I have some brief follow-up  
 24 questions. I'll try not to keep you long.

25 A. Thank you.

# EXHIBIT E

COPY

1                   UNITED STATES DISTRICT COURT  
2                   DISTRICT OF NEW JERSEY  
3                   Civil Action No. 13 Civ. 327 (DMC) (MF)

4                   ISABEL PEREZ,

5                   Plaintiff,                   DEPOSITION OF:  
6    LISA THORPE  
7                   vs.

8                   FACTORY DIRECT OF SECAUCUS, LLC,  
9                   et al.,

10                   Defendants.

-----X

11  
12                   BEFORE RONDA L. REINSTEIN, a Certified Court  
13                   Reporter of the State of New Jersey, at the offices of  
14                   Archer & Greiner, P.C., Court Plaza South, West Wing,  
15                   21 Main Street, Hackensack, New Jersey 07601, on  
16                   Tuesday, February 18, 2014, commencing at 5:25 p.m.  
17                   pursuant to notice.

18

19

20                   ROSENBERG & ASSOCIATES, INC.

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25                   [www.rosenbergandassociates.com](http://www.rosenbergandassociates.com)

	22		24
1       Q. Was this the first time that you had 2 heard from anyone that Isabel Perez was homosexual? 3       A. Yes. 4       Q. Was it the first time you heard from 5 anyone that Isabel Perez had a partner? 6       A. Yes. 7       Q. Ms. Perez alleges in her lawsuit, Lisa, 8 that her sexual orientation was well known among her 9 coworkers. 10       Was it your impression that her sexual 11 orientation was well known among her coworkers? 12       A. No. 13       Q. It was not well known? 14       A. No. 15       Q. What is the basis for that impression? 16       A. I didn't know until she told me. So I 17 don't know how anybody else would know. 18       Q. Unless she told you? 19       A. Unless she told you. 20       Q. Were you aware that during your 21 employment at Ashley whether Ms. Perez was married to 22 a woman? 23       A. She told us. 24       Q. Well, you said she said she had a 25 partner?		1       A. Not to my knowledge. 2       Q. Did Kathy Martin ever mention to you 3 that Isabel Perez was a homosexual? 4       A. Not to my knowledge. 5       Q. Did you ever hear Kathy Martin make any 6 remark about lesbians or homosexuals? 7       A. No, not to my knowledge. 8       Q. Did Kathy Martin ever use the term 9 "lesbo"?" 10       A. I don't know. I don't remember. 11       Q. Did Kathy Martin ever use the term 12 "fag"?" 13       A. I don't know. I don't remember. 14       Q. Ms. Perez alleges in her lawsuit that 15 the fact that she was married to a woman was well 16 known among her coworkers. 17       Was it your impression that her marriage 18 to a woman was well known among her coworkers? 19       A. I just answered. I don't remember. 20       MR. GRAFF: Objection. Asked and 21 answered. 22       MR. HARZ: Asked and answered 23 unfortunately is not a proper objection. I 24 have a right to continue. 25       Q. You don't remember what? I'm not sure.	
	23		25
1       A. Yes. 2       Q. Did she tell you she was married to a 3 woman? 4       A. I don't know if she said she was 5 married. She said she had a partner. I don't 6 remember the details. 7       Q. When you say "details," what do you 8 mean? 9       A. Whatever else she said. Again, this is 10 over a year ago, a year and some ago. At that point 11 I wasn't involved in what was going on with that. So 12 I don't remember. I don't care to remember, you 13 know. 14       Q. I understand. I'm asking you to jog 15 your memory. 16       A. I don't remember. 17       Q. Let me finish. I understand that it's 18 been some time ago. What I'm asking you to do is jog 19 your memory to the extent that you can just to 20 provide us with whatever is your recollection. 21 That's all. 22       To your knowledge, did Kathy Martin know 23 that Isabel Perez was a homosexual? 24       A. Not to my knowledge. 25       Q. No?		1       A. The question that you asked me. 2       Q. All right. I'm going to ask the 3 question again. 4       Ms. Perez alleges in her lawsuit that 5 the fact she was married to a woman was well known 6 among her coworkers. Was it your impression that her 7 marriage to a woman was well known among her 8 coworkers? 9       A. I don't know. 10       Q. Isabel Perez alleges in this lawsuit 11 that she raised concerns to Kathy Martin regarding 12 Kathy's and other co-workers' discriminatory comments 13 and conduct, including but not limited to the use of 14 racial and ethnic slurs in the workplace. 15       Did Isabel ever mention these concerns 16 to you? 17       A. Yes. 18       Q. Did she ever mention that she raised 19 these concerns with Kathy? 20       A. Yes. 21       Q. To anyone else? 22       MR. GRAFF: Objection. 23       Q. Did she mention that she raised these 24 concerns with anyone else, Isabel? 25       A. I don't remember.	

<p style="text-align: right;">30</p> <p>1 and Isabel we would talk about it, or disagreement 2 between the two.</p> <p>3 Q. On September 19th, 2012, you and Amber 4 Dominguez attended an educational session at ADP, 5 correct?</p> <p>6 A. We attended a session at ADP, yes. I 7 don't remember when it was.</p> <p>8 Q. I'm sorry, I didn't hear you.</p> <p>9 A. I don't remember when it was. But if 10 you say September...</p> <p>11 Q. Sometime around September you attended 12 an educational session at ADP; isn't that correct?</p> <p>13 A. Correct.</p> <p>14 Q. Isabel Perez was also in attendance at 15 that meeting, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Would you please describe Isabel's 18 conduct at that session at ADP.</p> <p>19 A. Very bossy.</p> <p>20 Q. Isabel made you feel uncomfortable at 21 that session, correct?</p> <p>22 A. Yes.</p> <p>23 Q. She made you feel withdrawn, correct?</p> <p>24 A. I wouldn't say withdrawn. I just wasn't 25 going to argue with someone who didn't know the</p>	<p style="text-align: right;">32</p> <p>1 A. Yes.</p> <p>2 Q. And isn't it true that Isabel Perez 3 responded by saying "Kathy Martin is not overseeing 4 ADP, I am"?</p> <p>5 A. Yes.</p> <p>6 Q. Isabel Perez recorded that ADP session, 7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. When did you find out that she recorded 10 the session?</p> <p>11 A. Later on when we were in the meeting she 12 said "Oh, let me pull up what he said at ADP." We 13 were like You recorded that without telling us, you 14 recorded us without... She's like yes.</p> <p>15 Q. Before Amber and you found out that 16 Isabel recorded the session, did you ever tell Isabel 17 that you were agreeable to her recording the session?</p> <p>18 A. No. I didn't know she recorded it.</p> <p>19 Q. Did Amber ever tell Isabel Perez that 20 Amber was in agreement with Isabel recording the 21 session?</p> <p>22 A. Oh, I don't know what Amber did.</p> <p>23 MR. GRAFF: Objection.</p> <p>24 Q. You can answer the question. You can 25 answer.</p>
<p style="text-align: right;">31</p> <p>1 purpose that we came there. Because Kathy gave us 2 strict instructions, questions to ask ADP, what we 3 should look for. And she was going against 4 everything that -- the questions that we would ask, 5 she was like Oh, you don't know need to know that.</p> <p>6 Q. Who said that you don't need to know the 7 answers to the questions you were asking?</p> <p>8 A. Isabel. You don't need to know that 9 because I'm going to do something different. You</p> <p>10 don't need to do that because we're going in a 11 different direction.</p> <p>12 At that point after she said that a 13 couple times I just stopped asking questions.</p> <p>14 Q. Isabel made you feel anxious at that 15 time, correct?</p> <p>16 A. Yes.</p> <p>17 Q. She was argumentative at that time, 18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Isabel interrupted Amber and you when 21 you attempted to ask questions, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Amber and you told Isabel at that 24 session that you previously discussed the ADP session 25 with Kathy Martin, correct?</p>	<p style="text-align: right;">33</p> <p>1 A. Okay. I don't know what Amber said to 2 her.</p> <p>3 Can I just ask a question? What does 4 that mean when he says --</p> <p>5 Q. He's stating an objection for the 6 record. But you still have to answer the question.</p> <p>7 MR. GRAFF: My objection is not intended 8 to influence your answers at all.</p> <p>9 Q. Right. What we do is we look at the 10 objections at a later date.</p> <p>11 A. Okay.</p> <p>12 Q. Isabel Perez requested that she, Amber 13 and you have many closed-door meetings, correct?</p> <p>14 A. Isabel said -- what did you say again?</p> <p>15 Q. Isabel Perez requested that she, Amber 16 and you have many closed-door meetings, correct?</p> <p>17 MR. GRAFF: Objection.</p> <p>18 A. I don't know what "many" means. Many? 19 And I don't know what you mean by closed doors.</p> <p>20 Most of the time Kathy wasn't there. It 21 was just Amber, myself and Isabel.</p> <p>22 Q. Behind a closed door?</p> <p>23 MR. GRAFF: Objection.</p> <p>24 A. Yes. I mean, the doors were always 25 closed.</p>

	34		36
1       Q. At one of those meetings Isabel told 2 Amber and you that Kathy Martin was no longer in 3 charge of Ashley Human Resources Department, correct? 4       A. I don't remember. 5       Q. You don't remember? 6       A. No. 7       Q. I'm going to ask you to jog your memory 8 again. At one of those meetings didn't Isabel tell 9 you and Amber that Kathy Martin was no longer in 10 charge of the Ashley Human Resources?		1       Q. Isn't it also true that in one of the 2 closed-door meetings Isabel Perez said to Amber and 3 you, quote, "I am a woman's woman, do you know what 4 that means," end quote? 5       A. Yes. 6       Q. Yes, she did say that? 7       A. Yes, she did say that. 8       Q. Isabel also said, quote, "I am married 9 to a woman," end quote; isn't that correct? 10      A. I don't remember that. 11     Q. Did you ever tell anyone about the 12 conversation with Isabel that we just discussed? 13     A. No. 14     Q. Do you know what, if anything, prompted 15 Isabel to tell you that she was a homosexual? 16     A. No. I thought she was crazy. 17     Q. You thought she was crazy? 18     A. Um-hm. 19     Q. Who? 20     A. Isabel. 21     Q. Why did you think she was crazy? 22     A. You're coming into an organization two 23 weeks on the job, two weeks in giving this type of 24 information, you just don't do that type of stuff. 25     Q. What do you mean giving this type of	
1       Q. And Kathy Martin was not? 2       A. She didn't say Kathy wasn't. I'm your 3 direct supervisor so you go to me. The chain of 4 command is if there was a problem she would go to 5 Kathy. Kathy would say we could go to either/or. 6       Q. Isabel Perez said that she -- Isabel was	35		
1       your direct supervisor? 2       A. Direct supervisor. 3       Q. And that you should go to Isabel and not 4 Kathy? 5       A. That we should go to her. 6       Q. To Isabel? 7       A. Yeah. 8       Q. Isabel also said that she and not Kathy 9 was going to be human resources manager, correct?		1       information? 2       A. Saying I'm a woman's woman. Who does 3 that if you're going to be managing somebody, that 4 make their employees feel uncomfortable. 5       Q. Did it make you feel uncomfortable? 6       A. No. Because I know who I am. But then 7 again I just thought the whole process, her being 8 hired and how she was hired, was just out of the 9 norm. You would never ever see that in any other	37
10      MR. GRAFF: Objection. 11     A. I don't remember that. Because Kathy 12 was a director, not a manager. 13     Q. Isabel said that Eugene Chrinian does 14 not trust Kathy Martin; isn't that correct? 15     A. She did say that, yes. 16     Q. Did she ever tell you how she knew that? 17     A. No. 18     Q. Isabel also told Amber and you that 19 Eugene Chrinian wanted to fire Amber and you; isn't 20 that correct? 21     A. Yes. 22     Q. Isabel Perez also told you and Amber 23 that Eugene Chrinian kept files on the two of you; 24 isn't that correct? 25     A. Yes.		10 company that you would work at. 11     Q. Did there come occasion when Isabel, 12 Amber and you were in the Ashley store's parking lot 13 and Isabel said "Do you see the decal on my car"? 14     A. Yes. 15     Q. Isn't it true that Isabel then asked you 16 "Do you know what it stands for"? 17     A. Yes. 18     Q. Isn't it also true that Isabel told you 19 that the decal stood for a lesbian rights 20 organization? 21     A. Yes. 22     Q. On October 5th, 2012, you attended a 23 meeting with respect to recruiting at which Isabel 24 Perez, Kathy Martin, Theresa Riccardi, and Amber 25 Dominguez were present, correct?	

	38		40
1	A. I don't know if Amber was present in	1	a problem with. Yeah, I don't remember.
2	that meeting.	2	Q. Do you remember whether Ms. Martin would
3	Q. Isabel and Theresa had a disagreement at	3	refer to you or Amber in the workplace as a bitch?
4	that meeting, correct?	4	A. Yeah, she would.
5	A. Yes.	5	Q. Do you remember whether she would use a
6	Q. Isabel raised her voice, correct?	6	racial word, the N word?
7	A. Yes.	7	A. Not to me. But she has used that in the
8	Q. Isn't it true that Isabel screamed,	8	office.
9	quote, "You have to listen to me, I am the HR	9	Q. How do you know that she has used it in
10	director, I am the HR director," end quote?	10	the office?
11	A. She screamed something. I don't	11	A. Because I heard her.
12	remember what she screamed.	12	Q. Can you remember any context --
13	Q. To the best of your recollection, can	13	A. No.
14	you tell us what Isabel screamed?	14	Q. Did you hear Ms. Martin refer to people
15	A. I don't remember.	15	the biracial term "brownie"?
16	Q. But she did scream something?	16	A. Her kids, yes.
17	A. Yes.	17	Q. What about the word "creamy"?
18	Q. Were you ever told by anyone that Isabel	18	A. Her kids. Because she's biracial.
19	had difficulty with another employee?	19	Q. Did Ms. Martin ever mention anything to
20	A. No.	20	you in the workplace about a homosexual relative or
21	Q. Other than what you have testified to	21	family member?
22	today, were you ever present when Isabel had	22	A. I don't remember. I don't remember. I
23	difficulty with any other employees?	23	don't want to say -- I thought I recalled her saying
24	A. No.	24	somebody in her family was -- I think so. But I
25	Q. Other than what we have discussed, did	25	don't remember the context, how it was talked about.
	39		41
1	you have any issues with Isabel?	1	I don't remember.
2	A. No.	2	Q. Do you remember -- not specific to who
3	MR. HARZ: I have no further questions.	3	she was referring to, but do you remember
4	MR. GRAFF: I have a few follow-up	4	Ms. Martin saying anything about any homosexual
5	questions. Could we maybe go off the record	5	person?
6	for a minute.	6	A. I just remember that she -- I don't know
7	(Brief recess was taken.)	7	if she had a child or somebody in her family who was
8	CROSS-EXAMINATION	8	gay. I do remember that conversation, but I don't
9	BY MR. GRAFF:	9	know what else, what else came around it.
10	Q. Ms. Thorpe, I have just a few follow-up	10	Q. Do you remember if Kathy Martin said
11	questions.	11	anything about religion in that conversation?
12	First, do you understand that you're	12	A. No, I don't remember.
13	still under oath and this is a continuation of your	13	Q. Did Ms. Martin talk about religion at
14	deposition?	14	all to you in the workplace?
15	A. Yes.	15	A. Oh, yeah, all the time. She was a
16	Q. You had mentioned something to the	16	minister and she prayed with us frequently.
17	effect that Isabel had a problem with a word that	17	Q. When you say she prayed with you
18	Ms. Martin, Kathy Martin, used, I think specifically	18	frequently, can you describe what that actually --
19	"heifer"; is that correct?	19	A. She would pray with Amber and I.
20	A. Yes.	20	Q. Is this something that Ms. Marty would
21	Q. Were there any other words that	21	suggest that the three of you do?
22	Ms. Martin used that Isabel said she had a problem	22	A. Yes. She would say "Let's pray."
23	with?	23	Q. Did anybody else --
24	A. Yeah, there were other words. I don't	24	A. It was just the three of us there.
25	remember what they were. But that particular she had	25	Q. Just for the transcript, I know

<p style="text-align: center;">46</p> <p>1 write that email did she explain anything about what 2 it should include and why she was asking?</p> <p>3 A. She wanted to have a trial, she said, of 4 Isabel's, her actions. It was almost that you felt 5 obligated to write. You've got to do it. We've got 6 to cover ourselves.</p> <p>7 Q. Had Ms. Martin ever asked you to write 8 an email like that about any other employee or former 9 employee?</p> <p>10 A. No.</p> <p>11 Q. Did you know if Ms. Martin asked 12 anybody else to write a document or email about 13 Ms. Perez?</p> <p>14 A. I think she asked Amber, but I'm not 15 sure.</p> <p>16 Q. You had mentioned earlier -- I know we 17 already touched on this. I just have a couple more 18 questions.</p> <p>19 You mentioned earlier that Ms. Martin 20 would refer to, I believe, you and Amber by the word 21 "heifer." Did you ever hear her refer to any other 22 employees at the company by that word?</p> <p>23 A. I mean, if somebody called in, you know, 24 from the store and she had spoken to them about 25 something and she said "Heifer, didn't I just tell</p>	<p style="text-align: center;">48</p> <p>1 A. Because I did not like the company, how 2 they treated their employees, starting with Eugene. 3 Q. Are there any particular examples that 4 led you --</p> <p>5 A. They just didn't treat their employees 6 good. They didn't care about their people. All they 7 were worried about was numbers.</p> <p>8 Q. Anything else?</p> <p>9 A. No.</p> <p>10 Q. Is there any particular reason why you 11 referred specifically to Eugene in your last 12 response?</p> <p>13 A. Because he's the owner of the company, 14 and it starts from the top and goes down.</p> <p>15 Q. Did you ever hear Eugene say anything 16 that made you uncomfortable or upset for any reason?</p> <p>17 A. I've heard Eugene say things, you know, 18 like if a customer called in and something is wrong 19 with their delivery, they want you to refuse 20 furniture. If the customer feels that something is 21 wrong with it, he wants you to make them, you know, 22 try to persuade them to leave that furniture there 23 regardless of what the customer is saying.</p> <p>24 That was something that I didn't agree 25 because I bought furniture from there. If I had a</p>
<p style="text-align: center;">47</p> <p>1 you or I spoke to you last week about it?" Again, 2 when she said that, she didn't mean anything by it. 3 That was just her way of how she was very 4 lackadaisical, I would say, that unprofessionalism 5 going on. But she didn't mean anything by it.</p> <p>6 Q. As you understood what the actual word 7 heifer means, what does that word mean to you?</p> <p>8 A. Coming from Kathy, like somebody you're 9 talking to in the street. Like, I would call Amber a 10 heifer if I'm talking to her.</p> <p>11 Q. I'm not trying to ask an overly simple 12 question. But just what does heifer mean?</p> <p>13 A. It doesn't mean anything to me. It's 14 just another word that you use.</p> <p>15 Q. Did you agree with Isabel when she told 16 you that she thought that some of the words that 17 Ms. Martin used in the workplace to employees were 18 inappropriate in a professional workplace?</p> <p>19 A. Sometimes. Because you know how I 20 looked at it is if somebody else came back and heard 21 her use those types of words it could not send the 22 right message. But, again, I knew Kathy and I knew 23 she didn't mean anything by it.</p> <p>24 Q. Can I ask why you decided to end your 25 employment?</p>	<p style="text-align: center;">49</p> <p>1 scratch on it, I don't want a technician coming in 2 after I paid money for furniture coming in and 3 telling me you're going to send a technician to look 4 at it. I want it to be perfect when I get it. 5 So it was just little stuff like that. 6 He just didn't care about his employees. 7 Q. Can you think of any other examples like 8 that?</p> <p>9 MR. HARZ: Object. What does this have 10 to do with the lawsuit? 11 MR. GRAFF: I can explain it to you 12 outside of the presence of the witness. I 13 think we'll be finished. 14 MR. HARZ: I'll let you go a little 15 further, Ari. But, again, I'm going to ask you 16 to stay in relation to the lawsuit. 17 MR. GRAFF: Your comment is noted. I 18 think we're nearly done. 19 A. I'm sorry. 20 Q. Can you think of any other examples or 21 instances -- 22 A. They just didn't treat their employees 23 good. 24 Q. I'm sorry. Just for the record, if I 25 could just finish the full question. Thank you for</p>

Kathy Martin

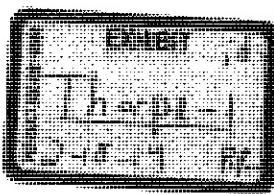
**From:** Lisa Thorpe [l thorpe@ashleyne.com]  
**Sent:** Wednesday, October 24, 2012 2:07 PM  
**To:** Kathy Martin

Isabel management style was not conducive to Ashley Furniture culture. She came into the organization wanting to make a change immediately without knowing the history or the culture of this company. She made me feel very uncomfortable when she said to me that her and Kathy Martin are running side by side and she never loses. I told her that I didn't know that this was a competition but a team that suppose to be working together. Isabel was always trying to divide our team. This team was a cohesive team prior to her coming on board. When Isabel would ask me to do something and we didn't do it the way she wanted it to be done. I would say to her, let me check with Kathy. Isabel said to me you now report to me not Kathy and you don't need to check with her. Again, this made me feel uncomfortable. Isabel didn't want us to tell Kathy about anything that was going on in the department. She said she didn't need to know that's why she was there.

We attended an offsite meeting at ADP and she was very argumentative and controlling during this training. The HR team had already discussed what was needed from ADP but Isabel came in with her own agenda. I said to Isabel that this is what Kathy has approved and her reply was Kathy is not overseeing ADP she was. Isabel recorded the entire meeting without us knowing or our consent.

Isabel told Amber and I that Eugenia had a file on us and we were going to be fired. We were both surprised that she said that.

On October 5, 2012 we had a meeting regarding recruiting. Isabel and Theresa had a disagreement and they both got loud. Isabel walked out the room crying saying she resigned. She came back into the meeting and again her and Theresa disagreed on a topic and Isabel yelled at Theresa "I am the HR Director" she said this over and over to her.



ASH-PER-0101

# EXHIBIT F

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82 of 119 PageID: 7

1                   UNITED STATES OF DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW JERSEY  
CIVIL ACTION NO.: 2:13-cv-00327 (DMC-MF)

ISABEL PEREZ,

Plaintiff,

5 | -VS-

6 FACTORY DIRECT OF SECAUCUS,  
7 LLC d/b/a ASHLEY FURNITURE  
8 HOMESTORE, EUGENE CHRINIAN,  
9 in his official and individual capacities, and KATHY MARTIN, in her official and individual capacities,

10 Defendants/Third-party Plaintiffs,

- V S -

THE OTTINGER FIRM, P.C.,

13 Third-party Defendant.

16 DEPOSITION OF:

17 AMBER DOMINGUEZ

18

19

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21

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<p style="text-align: right;">22</p> <p>1 contact her, but nothing serious.</p> <p>2 Q. Did you ever speak to Jackie Cortez 3 about this lawsuit?</p> <p>4 A. No.</p> <p>5 Q. And you said earlier with regard to 6 Lisa Thorpe that you are friends?</p> <p>7 A. Yes.</p> <p>8 Q. Do you speak to her quite often?</p> <p>9 A. Yes.</p> <p>10 Q. Did you ever speak to Lisa Thorpe 11 about this lawsuit?</p> <p>12 A. No. We do not sit down and speak 13 about this kind of stuff outside of anything.</p> <p>14 Q. With regard to Jody Matter, how 15 often do you speak to Jody Matter?</p> <p>16 A. Just through Facebook.</p> <p>17 Q. What's the substance of your 18 communications with Jody Matter?</p> <p>19 A. Kids. Just her kids are in Cub 20 Scouts, so usually just touching base about kids.</p> <p>21 Q. Did you ever discuss this lawsuit 22 with Jody Matter?</p> <p>23 A. No.</p> <p>24 Q. How much interaction did you have 25 with Isabel Perez during your employment at</p>	<p style="text-align: right;">24</p> <p>1 came to work for Ashley Furniture.</p> <p>2 Q. Did she say anything about 3 continuing her consulting business?</p> <p>4 A. I don't recall her saying she 5 continued it, but I do recall her saying that she 6 was upset that she sold her business to come to 7 work for Ashley Furniture, but I don't recall her 8 saying that she was going to continue her 9 business.</p> <p>10 Q. Did she say these things to you 11 orally?</p> <p>12 A. Yes.</p> <p>13 Q. Were there any other witnesses at 14 the time?</p> <p>15 A. I would say yes. If I recall 16 correctly, either myself, Lisa, and Theresa would 17 be in the vicinity of the same area.</p> <p>18 Q. Were you aware during your 19 employment at Ashley that Isabel Perez was 20 homosexual?</p> <p>21 A. Yes, I was.</p> <p>22 Q. How did you become aware?</p> <p>23 A. I actually became aware of this 24 information during a sit-down that she had 25 requested for me to come into the office behind</p>
<p style="text-align: right;">23</p> <p>1 Ashley?</p> <p>2 A. Uhm, I would say a fair amount of 3 interaction with her because I was located in the 4 Secaucus facility at the time that she was 5 employed there, so mostly on a day-in-and-day-out 6 basis during her time there.</p> <p>7 Q. What portion of your workday 8 generally was involved with interacting with her?</p> <p>9 A. Honestly, mostly just in the 10 mornings upon her arrival, because after that it 11 was usually she would be in closed-door meetings 12 with Kathy or Theresa.</p> <p>13 Q. What was your general impression of 14 Isabel Perez?</p> <p>15 A. Uhm, my general impression of her 16 was that she was very stern and kind of hyper, 17 but I guess that was just the way she carried 18 herself.</p> <p>19 Q. Did Isabel Perez ever mention 20 Isabel's consulting business?</p> <p>21 A. Yes, all the time.</p> <p>22 Q. What did she say about it?</p> <p>23 A. She just had said that she had a 24 consulting business and that she had two offices, 25 and that she had actually sold her business and</p>	<p style="text-align: right;">25</p> <p>1 closed doors.</p> <p>2 We were having a conversation where she was 3 letting me know that neither Eugene or Kathy 4 wanted me to be part of the H.R. staff and that 5 they were looking to terminate me, and after that 6 conversation she told me that she's a woman's 7 woman and did I understand what that meant? And 8 I kind of said yes, but I didn't really 9 understand what it meant. So I kind of just 10 giggled and, you know, nodded, and like, yeah, I 11 know what it means, but I really didn't know what 12 it meant.</p> <p>13 Then she asked me to bring Lisa into the 14 office for the sit-down. So I called Lisa into 15 the office, and then that's when she went into 16 more detail explaining that she was married to 17 another woman.</p> <p>18 Q. When was this? When was this sit- 19 down?</p> <p>20 A. It was the day -- I believe it was 21 the day after she was officially on-boarded.</p> <p>22 Q. The day after she was employed by 23 Ashley?</p> <p>24 A. Yes.</p> <p>25 Q. Officially employed?</p>

26

1 A. Yes.  
 2 Q. When you say officially employed,  
 3 what do you mean?  
 4 A. Because the day before that, and it  
 5 was the day before that that she was there in the  
 6 office, we were having a meeting in the  
 7 conference room but it wasn't her first official  
 8 day of work, it was that she was just there for  
 9 that short meeting to go over job duties and to  
 10 let us know that her and Kathy were equal.

11 Q. What do you mean she wanted to let  
 12 you know that her and Kathy were equal?

13 A. That's the part that confused me  
 14 all the time. That's what she told us, that her  
 15 and Kathy were equal; that they were both in the  
 16 same level in the H.R. Department.

17 Q. By "Kathy," are you referring to  
 18 Kathy Martin?

19 A. Yes.

20 Q. Ms. Perez alleges in her lawsuit  
 21 that her sexual orientation was well-known among  
 22 her co-workers. Was it your impression that her  
 23 sexual orientation was well-known among her  
 24 co-workers?

25 A. I honestly say no.

28

1 Q. Told by whom?  
 2 A. Told by Kathy.  
 3 Q. Kathy Martin?  
 4 A. Kathy Martin that Mark -- that  
 5 after they had terminated Isabel, Mark Scott and  
 6 Kathy had a conversation to where Mark Scott  
 7 explained to Kathy that Theresa had called him on  
 8 his drive home from work and was I guess talking  
 9 to him about situations that happened within the  
 10 office that she wasn't comfortable with; that I  
 11 guess there was a situation that happened in one  
 12 of the stores that I really don't know too much  
 13 about, and that she --

14 Q. "She" meaning who?

15 A. Theresa told Mark Scott that, I'm  
 16 sorry, that Isabel was, you know, married to a  
 17 woman.

18 Q. Theresa told Mark Scott that Isabel  
 19 was married to a woman?

20 A. Correct.

21 Q. Theresa Ricciardi was not manager  
 22 of Ashley. Isn't that correct?

23 A. I really don't know what her  
 24 position was. I don't know what she was hired  
 25 as.

27

1 Q. Why do you say that?  
 2 A. Because when she told me and Lisa  
 3 in our conversation, she asked us not to tell  
 4 anybody, and I know me myself, I didn't tell  
 5 anybody about it. I kept it between us because  
 6 really it didn't matter to me what her sexual  
 7 orientation was. That doesn't bother me. To my  
 8 knowledge I don't think Lisa said anything to  
 9 anybody. So I would say it was just the two of  
 10 us that knew about it, and I know I didn't say  
 11 anything to anyone.

12 Q. To your knowledge did Kathy Martin  
 13 know that Isabel Perez was homosexual?

14 A. No. Kathy did not know.

15 Q. How do you know that?

16 A. I can say that I know that because  
 17 the day that Kathy found out was I believe the  
 18 day that Isabel got terminated, and it wasn't  
 19 through me or Lisa, it was through a conversation  
 20 that I guess Theresa Ricciardi I think her last  
 21 name was had with Mark Scott the night before.

22 Q. Could you explain that further?

23 A. To what I was told, I don't know,  
 24 you know, because I wasn't involved in the  
 25 conversation.

29

1 Q. Isn't it a fact that she was a  
 2 recruiter for Ashley?  
 3 A. Yes, to my understanding that's  
 4 what she was there for, but she carried herself  
 5 in a totally different aspect. She wasn't doing  
 6 recruiting at all at the time that she was there.  
 7 She more or less wanted to -- you know, she was  
 8 involved in other things, so I don't know if she  
 9 was anything more than a recruiter.

10 Q. But she wasn't a manager?

11 A. No, she wasn't a manager.

12 Q. Okay. Did you ever hear Kathy  
 13 Martin make any remark about lesbians or  
 14 homosexuals?

15 A. Kathy has made remarks about  
 16 lesbians or homosexuals in the past, but nothing  
 17 degrading, because my recollection is that she  
 18 has two or -- I believe two family members that  
 19 are also lesbian.

20 Q. Isn't it a fact that in a  
 21 conversation that you had with me you told me  
 22 that Kathy Martin did not make any remarks about  
 23 lesbians or homosexuals?

24 A. Well, it's not -- I don't know.  
 25 Do you mean like saying a remark, saying

<p style="text-align: right;">30</p> <p>1 something degrading, like calling them names or 2 something? No. But did she mention that she had 3 somebody that's lesbian in her family, yes, so I 4 don't know if that's considered a remark.</p> <p>5 Q. Okay. Did Kathy Martin ever use 6 the term "lesbo"?</p> <p>7 A. Not that I remember.</p> <p>8 Q. Did Kathy Martin ever use the term 9 "fag"?</p> <p>10 A. "Fag"? Not that I remember. No.</p> <p>11 Q. Isabel Perez alleges in her lawsuit 12 that the fact that she was married to a woman was 13 well-known among her co-workers. Was it your 14 impression that her marriage to a woman was 15 well-known among her co-workers?</p> <p>16 A. No.</p> <p>17 Q. Isabel Perez also alleges that she 18 raised concerns to Kathy Martin regarding Kathy's 19 and other co-workers' discriminatory comments and 20 conduct including but not limited to the use of 21 racial and ethnic slurs in the workplace. Did 22 Isabel ever mention these concerns to you?</p> <p>23 A. Yes.</p> <p>24 Q. What did she say?</p> <p>25 A. We had met -- "we" meaning myself,</p>	<p style="text-align: right;">32</p> <p>1 conversations with Kathy, she didn't tell Eugene 2 that she was of mixed race.</p> <p>3 Q. Okay.</p> <p>4 A. Or anybody outside of me, Lisa, and 5 Aazel at the time when Aazel was there. It was 6 just amongst the ones that were in H.R.</p> <p>7 Q. Okay. Isabel also alleges that she 8 raised concerns with Kathy over Kathy's 9 application of her religious beliefs to 10 relatively trivial workplace matters. Did Isabel 11 ever mention these concerns to you?</p> <p>12 A. No.</p> <p>13 Q. Did Isabel ever complain to you 14 about Kathy?</p> <p>15 A. Yes.</p> <p>16 Q. How so?</p> <p>17 A. One evening I was the only one 18 there in the office in Secaucus. I don't 19 remember what store Isabel had came from. I want 20 to say Paramus, but I'm not a hundred percent 21 sure.</p> <p>22 Isabel came in. I was still there 23 finishing up a couple of things I was working on, 24 and Isabel was telling me that, you know, that 25 Kathy is very unprofessional and she doesn't --</p>
<p style="text-align: right;">31</p> <p>1 Isabel, and Lisa, we met Kathy for lunch one 2 afternoon. Kathy was in Secaucus -- I'm sorry, 3 in Edison, and we were in Secaucus. So we met 4 her for lunch I believe in Linden at Chevy's, and 5 the conversation came up where Isabel told Kathy 6 that she shouldn't be using the word "nigga."</p> <p>7 Now, Kathy turned and said that she can 8 more or less use the word "nigga" because it's 9 n-i-g-g-a and not the word "nigger," and that's 10 exactly how she said it, and she said it's not 11 n-i-g-g-e-r. So Isabel said, you know, "I don't 12 see what the difference of either of the words 13 are. It's more or less the same thing," and 14 Kathy went on explaining how if it ends with an 15 "a" or it ends with an "e-r" it's totally 16 different, and then Kathy also made the comment, 17 you know, that her father is black so she can use 18 the word, and her and Isabel kind of went back 19 and forth that no, you shouldn't.</p> <p>20 Q. Kathy mentioned that she was mixed 21 race?</p> <p>22 A. Yes, to us. But to my 23 understanding she didn't tell everybody.</p> <p>24 Q. I'm not sure what you mean by that.</p> <p>25 A. She, to my understanding through</p>	<p style="text-align: right;">33</p> <p>1 she's not meeting the expectations of Eugene and 2 that Eugene wanted to get Kathy out of the H.R. 3 team and that Isabel was the one that was going 4 to be taking her place.</p> <p>5 Q. Isabel said these things to you?</p> <p>6 A. Yes.</p> <p>7 Q. Was anybody else present at the 8 time?</p> <p>9 A. No. It was just me and Isabel in 10 the back office.</p> <p>11 Q. Did Isabel ever complain to you 12 about Kathy at any other time?</p> <p>13 A. Yes.</p> <p>14 Q. Explain that, please.</p> <p>15 A. It was that same night, that same 16 evening she told me that she had -- I don't know 17 if she had investigated Kathy, but she told me 18 that she had somebody look into Kathy's 19 background and that Kathy was not who everybody 20 portrayed her as and that her ex-husband was a 21 drug addict.</p> <p>22 Q. Whose ex-husband?</p> <p>23 A. Kathy's ex-husband.</p> <p>24 Q. Isabel told you that?</p> <p>25 A. Yes.</p>

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1	discussing on September 24, 2012 Isabel made you	1	Q. Isabel was disruptive. Isn't that
2	feel confused. Correct?	2	correct?
3	MR. GRAFF: Objection.	3	A. That is very correct.
4	Q. You can answer the question.	4	Q. Isabel interrupted Lisa and you
5	A. Yes.	5	when you attempted to ask questions of the ADP
6	Q. She also made you feel	6	instructor. Isn't that correct?
7	uncomfortable. Isn't that correct?	7	A. Yes.
8	MR. GRAFF: Objection.	8	Q. Lisa and you told Isabel that you
9	Q. You can answer the question.	9	previously discussed the ADP session with Kathy
10	A. Yes.	10	Martin. Isn't that correct?
11	Q. Isabel's approach during the	11	A. Yes.
12	meeting was direct and bossy. Correct?	12	Q. Lisa and you also expressed concern
13	MR. GRAFF: Objection.	13	to Isabel that Isabel was not permitting you to
14	A. Very.	14	obtain the information you needed at the ADP
15	Q. Very direct and very bossy?	15	session. Isn't that correct?
16	A. Correct.	16	A. That's correct.
17	MR. GRAFF: Objection.	17	Q. Isn't it also true that Isabel
18	Q. You felt that she had brought	18	responded by saying, "Kathy is not overseeing
19	division into the H.R. Department. Isn't that	19	ADP, I am"?
20	correct?	20	MR. GRAFF: Objection.
21	MR. GRAFF: Objection.	21	A. Yes. And she also said that she
22	Q. You can answer.	22	already had ADP experience so she didn't need
23	A. Yes, I do.	23	this training.
24	Q. I now call your attention to	24	Q. "She" meaning Isabel?
25	September 19th, 2012 five days before September	25	A. Isabel, yes.
	39		41
1	24th. Lisa Thorpe and you attended an	1	Q. Isn't it true that Lisa and you had
2	educational session at ADP. Isn't that correct?	2	requested the ADP session?
3	A. Yes.	3	A. Yes, we did.
4	Q. Isabel Perez was also in	4	Q. That you had wanted to learn about
5	attendance. Isn't that correct?	5	ADP in order to perform your daily tasks.
6	A. She arrived after us and we had no	6	Correct?
7	idea that she was going to be attending, but,	7	A. Yes. That's correct.
8	yes, she did attend.	8	Q. Isabel recorded the ADP session.
9	Q. Isabel made you feel uncomfortable	9	Correct?
10	at that session. Isn't that correct?	10	A. Without our knowledge, yes.
11	A. Yes.	11	Q. When did you find out that Isabel
12	MR. GRAFF: Objection.	12	recorded the session?
13	Q. Isabel made you feel withdrawn at	13	A. I would believe about halfway into
14	that session. Isn't that correct?	14	the session is when we found out she was
15	MR. GRAFF: Objection.	15	recording.
16	A. Yes.	16	Q. How did you find out she was
17	Q. Isabel made you feel anxious at	17	recording?
18	that session. Isn't that correct?	18	A. She said it. She said to the
19	MR. GRAFF: Objection.	19	instructor, "I just want you to know that I'm
20	A. Very.	20	recording," and me and Lisa were very upset about
21	Q. Very anxious?	21	it.
22	A. Very anxious.	22	Q. Why were you upset?
23	Q. Isabel was argumentative. Correct?	23	A. Because there were things that were
24	MR. GRAFF: Objection.	24	mentioned in the meeting that Isabel -- that me
25	A. Very argumentative.	25	and Lisa were asking that we were told other

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1 information about -- we were asking questions to  
 2 the ADP instructor things that we were told that  
 3 the system wouldn't allow us to do or that we  
 4 didn't have access to create reports or whatever.  
 5 Whatever blockage that we were told that we  
 6 didn't have to utilize the system in the manner  
 7 that we needed it to function for our job duties  
 8 day in and day out, and we were kind of upset  
 9 when we found out that the ADP system actually  
 10 was created for the tasks that we had been  
 11 requesting access to, and the reason why we  
 12 weren't able to do this is because we weren't  
 13 granted the access when we were set up. We were  
 14 set up for the access but we weren't granted the  
 15 access.

16 Q. Before Lisa and you found out that  
 17 Isabel recorded the session, did you ever tell  
 18 Isabel that you were agreeable to her recording  
 19 the session?

20 A. No.

21 Q. Before Lisa and you found out that  
 22 Isabel recorded the session, did Lisa tell Isabel  
 23 that she was agreeable to Isabel recording the  
 24 session?

25 MR. GRAFF: Objection.

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1 MR. GRAFF: Objection.  
 2 A. Yes, it is.  
 3 Q. Isabel said that she and not Kathy  
 4 was going to be the H.R. manager. Correct?  
 5 A. Yes.  
 6 Q. Also in a closed-door meeting  
 7 Isabel told Lisa and you that Eugene Crinian  
 8 wanted to fire Lisa and you. Isn't that correct?  
 9 A. Yes. Many times.  
 10 Q. Isabel said that Eugene Crinian and  
 11 Kathy Martin wanted you out; "out" in quotes.  
 12 Isn't that correct?  
 13 A. Yes.  
 14 Q. Isabel's statements about you being  
 15 fired made you feel hurt. Correct?  
 16 A. Very.  
 17 Q. You also were confused. Correct?  
 18 A. Yes.  
 19 Q. Isn't it true that you said to  
 20 Isabel that you could not understand why your job  
 21 was being threatened so often?  
 22 A. Yes.  
 23 Q. Isabel responded that Eugene kept  
 24 files on Lisa and you. Isn't that correct?  
 25 A. Yes, in his office.

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1 A. No.  
 2 Q. Isabel requested that she, Lisa and  
 3 you have many closed-door meetings. Correct?  
 4 MR. GRAFF: Objection.  
 5 Q. You can answer the question.  
 6 A. To my recollection, I didn't have  
 7 many closed-door meetings with Isabel. I believe  
 8 I would say two, two to three that I had with  
 9 her, and most of the closed-door meetings me and

10 Lisa weren't involved in. It was just Isabel and  
 11 Kathy.

12 Q. At one of the closed-door meetings  
 13 Isabel told Lisa and you that Kathy Martin was no  
 14 longer in charge of the Ashley human resources  
 15 department. Isn't that correct?

16 MR. GRAFF: Objection.

17 A. That is correct.

18 Q. Isabel said that Kathy and she were  
 19 running side by side but that, quote, I never  
 20 lose, end quote. Isn't that correct?

21 A. Yes, that is.

22 Q. Isabel also told Lisa and you that  
 23 Lisa and you should only go to Isabel and not  
 24 Kathy Martin with regard to issues regarding  
 25 human resources. Isn't that correct?

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1 Q. Isn't it true that Isabel claimed  
 2 that she had been shown that information during  
 3 her interview with Eugene?  
 4 MR. GRAFF: Objection.  
 5 A. Correct.  
 6 Q. Isabel also said that Eugene was  
 7 planning to replace Lisa and you. Isn't that  
 8 correct?  
 9 A. Yes.

10 Q. Isn't it true that you felt that  
 11 there hadn't been any division in the H.R.  
 12 Department under Kathy Martin until Isabel Perez  
 13 became involved in the H.R. Department?

14 A. That's correct.

15 Q. You felt that Isabel Perez divided  
 16 the department. Correct?

17 A. Yes.

18 Q. Isabel said that Eugene Crinian did  
 19 not trust Kathy Martin. Isn't that correct?

20 A. Yes.

21 Q. Isn't it true that in one  
 22 closed-door meeting Isabel said -- well, strike  
 23 that.

24 I call your attention to an occasion where  
 25 you, Isabel, and Lisa were in the Ashley store

	46		48
1	parking lot.	1	laptop. I think it was just there that we were
2	A. In Secaucus?	2	trying to get documents out of. I don't think
3	Q. One of the stores. Did there come	3	anybody was assigned that laptop because they
4	a time when Isabel said to you, "Do you see the	4	were looking for certain documents that Aazel had
5	decal on my car"?	5	that we needed for H.R.
6	A. She did. That was actually the	6	Q. Isabel raised her voice at that
7	same afternoon that we were leaving the Secaucus	7	time. Isn't that correct?
8	facility to meet Kathy Martin for lunch.	8	A. Oh, yeah, but she wasn't the only
9	Q. And isn't it true that Isabel asked	9	one.
10	you, "Do you know what it stands for"? Meaning	10	Q. But she raised her voice?
11	the decal.	11	A. Yes.
12	A. Yes.	12	Q. Theresa also raised her voice.
13	Q. And isn't it also true that Isabel	13	Isn't that correct?
14	told you that the decal stood for a lesbian	14	A. Yes.
15	rights organization?	15	Q. Referring to Isabel, Theresa said
16	A. Yes.	16	to you, "I can't work with her." Isn't that
17	Q. I call your attention to October	17	correct?
18	5th, 2012.	18	A. Yes, that's when I went to the back
19	A. Okay.	19	office and Theresa also went to the back office
20	Q. Did you attend a meeting with	20	to cool off.
21	respect to recruiting which was also attended by	21	Q. Was anyone else present when
22	Isabel Perez, Kathy Martin, Theresa Ricciardi,	22	Theresa said that to you?
23	and Lisa Thorpe?	23	A. Not at that very moment. Shortly
24	A. Yes. For a short period of time.	24	after she mentioned that she couldn't work with
25	Q. Isabel and Theresa had a	25	Isabel Lisa came into the office area.
	47		49
1	disagreement at that meeting. Correct?	1	Q. Still at this October 5th, 2012
2	A. They had a few disagreements in	2	meeting, at one point in the meeting Isabel told
3	that meeting.	3	Kathy Martin that Isabel wanted to resign from
4	Q. What was said between Isabel and	4	employment. Correct?
5	Theresa? Do you recall?	5	A. Yes.
6	A. I'm not a hundred percent sure what	6	Q. And Kathy Martin convinced Isabel
7	sparked the whole disagreement. I know it was	7	not to resign. Isn't that correct?
8	where Isabel was giving direction to Theresa and	8	MR. GRAFF: Objection.
9	Theresa started saying, you know, that you're	9	A. That is correct.
10	always throwing it in my face that you're the	10	Q. Isn't it true at one point Isabel
11	manager, you're the manager, and then Isabel told	11	screamed, "You have to listen to me. I am the
12	her, you know, that she is the manager and that	12	H.R. director. I am the H.R. director"?
13	she's supposed to take direction from her, and	13	A. Yes.
14	somehow they kind of got into a back and forth	14	Q. Were you ever present when Isabel
15	arguing match and the laptop got knocked off the	15	had difficulty with any other employee of Ashley?
16	table, and I was done with that meeting, I walked	16	MR. GRAFF: Objection.
17	out and I didn't go back in.	17	A. No, I was not present.
18	Q. Do you recall whose laptop it was?	18	Q. Were you ever told by anyone that
19	A. It was actually Aazel's laptop that	19	Isabel had difficulty with any other employees?
20	she had used when she was employed there.	20	A. Yes.
21	Q. And who was using it at that time	21	Q. By whom?
22	at that meeting?	22	A. I was told by Lisa that Isabel had
23	A. At that meeting I believe --	23	went to one of the other stores and had a
24	Q. It was Theresa's laptop, wasn't it?	24	conflict with a sales manager at that store.
25	A. I don't know if it was Theresa's	25	Q. The Lisa you're referring to is

<p style="text-align: center;">50</p> <p>1 Lisa Thorpe. Isn't that correct?</p> <p>2 A. Yes, Lisa Thorpe.</p> <p>3 Q. Was the store the Paramus store?</p> <p>4 A. I believe it was the Paramus store.</p> <p>5 Q. Do you recall the name of the</p> <p>6 manager at the Paramus store? Could it have been</p> <p>7 Neil Travari (phonetic)?</p> <p>8 A. Yes, Neil. Uh-hum.</p> <p>9 Q. Were you ever told by anyone that</p> <p>10 Isabel had difficulty with any other employees?</p> <p>11 A. Not that I can remember, no.</p> <p>12 Q. By the way, Theresa Ricciardi was</p> <p>13 fired by Ashley after the argument with Isabel,</p> <p>14 wasn't she?</p> <p>15 A. Yes.</p> <p>16 Q. Did Eugene Crinian ever raise the</p> <p>17 topic of religion with you?</p> <p>18 A. With me personally?</p> <p>19 Q. Yes.</p> <p>20 A. No. I didn't speak very often to</p> <p>21 him.</p> <p>22 Q. And you mentioned before that</p> <p>23 Isabel told you that she had had someone do an</p> <p>24 investigation on Kathy Martin. Isn't that</p> <p>25 correct?</p>	<p style="text-align: center;">52</p> <p>1 get into a house with her kids and that the</p> <p>2 church covered up a lot of things that Kathy had</p> <p>3 done in her past, and also with the part that,</p> <p>4 you know, Kathy's husband wasn't the only one</p> <p>5 that had a drug problem.</p> <p>6 Q. Where did this conversation with</p> <p>7 Isabel take place?</p> <p>8 A. In the Secaucus store.</p> <p>9 Q. When?</p> <p>10 A. I don't remember the exact dates.</p> <p>11 I do remember it was a few days before she was</p> <p>12 terminated.</p> <p>13 Q. Isabel initiated the conversation.</p> <p>14 Isn't that correct?</p> <p>15 A. Yes, that's correct.</p> <p>16 Q. What did you think of the things</p> <p>17 that Isabel alleged to you about Kathy?</p> <p>18 A. Uhm, I was shocked and surprised</p> <p>19 because Kathy carried herself as a very, you</p> <p>20 know, religious person and I didn't think that</p> <p>21 she would have any reason to lie to us about if</p> <p>22 she had any kind of drug problem in the past or</p> <p>23 if she had more than one father of her children.</p> <p>24 I really don't think that that had anything to do</p> <p>25 with work, and I also don't think that she would</p>
<p style="text-align: center;">51</p> <p>1 A. Yes.</p> <p>2 Q. Isabel told you that Kathy Martin</p> <p>3 had been homeless. Isn't that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And Isabel alleged that Kathy was</p> <p>6 hiding other personal history. Isn't that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you said, as you said before, I</p> <p>10 think this was your testimony, that Isabel said</p> <p>11 to you that I'm just going to tell you that</p> <p>12 Kathy's husband wasn't the only person with a</p> <p>13 drug problem. Isn't that correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Did Isabel say anything else to you</p> <p>16 in the conversation that we've been discussing?</p> <p>17 A. Yes.</p> <p>18 Q. What else?</p> <p>19 A. She also told me that Kathy had</p> <p>20 more than one baby father, so all her children</p> <p>21 weren't from the same man. I guess within</p> <p>22 conversation Kathy must have said that she only</p> <p>23 had one father for her children, and Isabel said</p> <p>24 that wasn't true, and the part where Kathy was</p> <p>25 homeless and the church had helped her I guess</p>	<p style="text-align: center;">53</p> <p>1 have any reason to lie, but it was kind of</p> <p>2 shocking.</p> <p>3 Q. What did you think about Isabel</p> <p>4 saying the things that she did about Kathy?</p> <p>5 A. I think that it was sneaky. I</p> <p>6 would think the word would be, because, you know,</p> <p>7 you don't really -- you shouldn't have to go and</p> <p>8 look up anybody's past information. I don't</p> <p>9 think that's trustworthy at all. So I just kind</p> <p>10 of -- I didn't ever say anything to her but I</p> <p>11 kind of felt, well, if she did that to Kathy,</p> <p>12 what would she do to anybody else?</p> <p>13 MR. HARZ: Thank you. I have no</p> <p>14 further questions.</p> <p>15 MR. GRAFF: I'll have a few</p> <p>16 questions.</p> <p>17 Would it be okay with everybody if we took</p> <p>18 a two-minute stretch and restroom break?</p> <p>19 MR. HARZ: Two minutes.</p> <p>20 MR. GRAFF: Thank you.</p> <p>21 (There is a brief recess.)</p> <p>22 EXAMINATION BY MR. GRAFF:</p> <p>23 Q. Thank you, Dominguez. I'll try to</p> <p>24 be brief.</p> <p>25 Do you understand that this is a</p>

<p>1 bad all around. Kathy and Isabel had first      2 gotten into a back and forth argument, and then      3 it went into Isabel and Theresa.      4 Q. Can you think of any other      5 examples?      6 A. There was one morning, I don't      7 remember what started -- I think I actually came      8 in and it was already something that had      9 happened, and Isabel had told Kathy that she was      10 going to quit; that she didn't want to be there.      11 It wasn't more than a couple of days of Isabel      12 being there. She, you know, Isabel was crying,      13 went into Kathy's office, of course the door got      14 closed like always, and then she came out and      15 they were fine.      16 So the problem was that they would go      17 behind closed doors a lot, Kathy and Isabel, and      18 while they were behind closed doors nobody knew      19 what was going on, and even I would tell Lisa or      20 Lisa would tell me, you know, that it was kind of      21 unfair to the rest of us that they were always      22 behind closed doors, and it was kind of      23 uncomfortable for us because we didn't know what      24 was going on.      25 Q. Can you think of any other</p>	<p>74</p> <p>1 was something that I wasn't doing, that they      2 wouldn't see no matter what I did it was just,      3 you know, I just took myself out of the equation      4 because my thoughts are if I can't do anything      5 right, then I don't need to be here, but I knew      6 that the job that I was doing was exactly what I      7 was brought in to do, but at the time I just felt      8 like no matter what, it was never enough, it was      9 never done correctly or to his expectations.      10 Q. Did either of those two occasions      11 when Eugene spoke to you occur after Isabel left?      12 A. No.      13 Q. Were they both before Isabel      14 started?      15 A. Yes.      16 Q. Did Kathy Martin ever talk about or      17 raise the subject of religion that you heard in      18 the workplace?      19 A. All the time.      20 Q. What do you mean by that? How      21 would that subject come up?      22 A. Kathy made it very well-known from      23 day one of her being hired that she was a      24 reverend and that she spoke in tongues, which I      25 have no idea what that means, and she would ask</p>
<p>1 examples?      2 A. No.      3 Q. Why did you stop working at Ashley?      4 A. Honestly?      5 Q. Yes. And of course in the      6 deposition, as you know, honestly is the only way      7 to respond.      8 A. I stopped working at Ashley      9 Furniture because I felt that I was treated      10 unfairly. I felt that no matter what I did, how      11 much I did, what I said, what I would do was      12 frowned upon by Eugene.      13 I can definitely say that personally I      14 never had a sit-down with Eugene, but I was told      15 by other people he and Kathy, being Aazel, being      16 Isabel, that Eugene did not want me part of the      17 H.R. team and that he wanted me out of the      18 company. He didn't want me working there.      19 I would work long hours from home, you      20 know, doing tasks that were asked of me by my      21 manager, which was Kathy or Aazel at the time,      22 and I just felt that no matter what I did it was      23 never enough, and the two times that I did have      24 conversation with Eugene, it was him more or less      25 scolding me, and I just felt that obviously there</p>	<p>75</p> <p>1 us to pray in a group prayer being me, herself,      2 and Lisa for different reasons on different      3 occasions. So it was very well-known about her      4 religious beliefs.      5 Q. Apart from praying with you and      6 Lisa, as far as you know, did Ms. Martin ever      7 discuss religion or ask to pray with other people      8 at Ashley?      9 A. Yes.      10 Q. And who are you referring to?      11 A. If I'm not mistaken, she spoke      12 about religion quite often with Mary Russi and I      13 believe prayed with Mary Russi as well.      14 Q. Anyone else?      15 A. Not that I know of, no.      16 Q. Did Ms. Perez -- strike that.      17 Was Ms. Perez ever present at a time when      18 Kathy Martin prayed with you or anyone else at      19 Ashley?      20 MR. HARZ: Objection.      21 A. I would say no, not as a group      22 praying session, but to my understanding Isabel      23 had mentioned to me that her and Kathy had prayed      24 together about a situation.      25 Q. Did Isabel say what the situation</p>

Kathy Martin

From: Amber Dominguez [mailto:adominguez@ashleyne.com]  
 Sent: Wednesday, October 24, 2012 2:26 PM  
 To: kmlar@ashleyne.com  
 Subject: Information Requested

EXHIBIT

Dominguez  
Isabel

Isabel came into the HR department explaining that her way of management was very different from Kathy's.

She explained during a meeting on 9/24/12, that she was overseeing HR and that Kathy was to be separated from the department. Stating that "Kathy has to be able to do the job she was hired to do and not run HR". Kathy was to be levitated from the department and we were to report to directly to Isabel. This made me confused and uncomfortable. Isabel's approach was very direct and bossy. She brought division into this department telling us that HR was HR and recruiting was recruiting. I had a hard time accepting this. HR is a team and we work as a team.

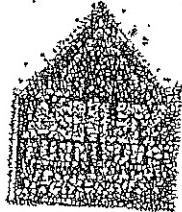
On 9/19/12, we attend an offsite ADP training session. Isabel arrived recording the whole session. Isabel objected to various questions we had by saying "oh I can teach you that, I know ADP because I've taught ADP classes". This to me was unfair and disruptive. We had requested this session prior to Isabel coming aboard looking to get information and access in ADP needed to complete our daily tasks. At break time and I approached Isabel explaining our concern about how she was not allowing us to get the information we had previously spoken over with Kathy, "Isabel's responds was Kathy is not over seeing ADP, I am". For the remainder to the session I felt uneasy knowing that Isabel was looking to take control of the department.

9/25/12 was Isabell's official date of hire. Isabel asked to speak to me in the office behind closed doors. At that time she explained to me that Kathy was no longer in charge of HR. That her and Kathy were running side by side and that according to Eugene the best person for the job would be left in the position, her comment was "I never lose". Isabel started to explain the reason she objected to questions and access during the ADP training was per Eugene's instructions to her. She explained that Eugene was looking to fire Lisa and I so, he did not want us to be granted any unnecessary access. I asked Isabel if she knew what my role was here at Ashley and her response to me was yes but both Eugene and Kathy want you out. She then told me that she was not going to allow that to happen because she needed me on her team. Due to her being new and me having the knowledge I had, she needed me here. I felt very hurt and confused at this point, I commented to Isabel that I could not understand why my job was being threatened so often. Isabel explained that Eugene had a file on Lisa and myself containing notes. She was shown this information during her interview with the instructions we were to be replaced, Isabel explained that Eugene didn't trust Kathy and that Isabel was here to replace her. Being that I feel like Lisa, Kathy and I worked very well together, I could not understand what Isabel was telling me. I felt that this was the first time since May (Kathy coming aboard) that division was brought into the HR department. Isabel explained to me that she was brought into HR to fix the culture of the company. During my conversation with Isabel she mentioned to me that she was a women's, women. Being a little confused with that comment, I asked her the meaning of it. She explained that she was involved in a same sex marriage. Isabel said that Kathy nor Eugene was aware of this. I agreed to keep this information amongst the two of us and I NEVER told Kathy about it.

During a conversation I had upon her returning from Parauku, Isabel told me that she had done her investigation on Kathy. She said that Kathy was a born again Christian and had been homeless while pregnant with her 4th child. Claiming that the church took Kathy and her children in covering up a lot of history that Kathy was hiding. Her last remark was I'm just going to tell you Kathy's husband wasn't the only person with a drug problem, I did not ask questions Isabel's remarks. I felt that this information was ignorant and unnecessary. What was being said to me did not change the way I thought of Kathy. As I gathered my belongings, I did say to Isabel that Kathy is a very open person, that has nothing to hide or be ashamed of and that all people in life make mistakes.

As you can see Isabel came aboard causing conflict, division and animosity within the HR department. We are not a department that works against each other. We have been teams that is known to work well with one another. During the time that Isabel was part of the HR department I said nothing to anyone about the things she said. The day Isabel was let go I then sat down with Kathy telling her what was said about her by Isabel.

Amber Dominguez | Human Resource Assistant  
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NJ Locations: Secaucus, Fairfield, Paramus  
NY Locations: Middletown, New Rochelle  
Warehouse: Edison, New Jersey

OUR MISSION STATEMENT:

OUR STAFF IS COMMITTED TO EXCELLENCE IN ALL WE DO. WE PROVIDE THE BEST VALUE IN HOME FURNISHINGS BACKED BY SUPERIOR SERVICE BEFORE, DURING, AND AFTER THE SALE. BY MAINTAINING OUR CORE VALUES OF HONESTY AND INTEGRITY, WE'VE MADE ASHLEY FURNITURE HOMESTORE A GREAT PLACE TO WORK AND SHOP.

# EXHIBIT G

[Page 1]

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

---

ISABEL PEREZ, : Civil Action No.:

Plaintiff, : 13 CIV 00327 (DMC-MF)

v. :

FACTORY DIRECT OF SECAUCUS, :

LLC d/b/a ASHLEY FURNITURE

HOMESTORE, EUGENE CHRINIAN, :

in his official and individual:

capacities, and KATHY MARTIN,

in her official and :

individual capacities,

:

Defendants/

Third-Party Plaintiffs, :

v. :

THE OTTINGER FIRM, P.C., :

Third-Party Defendant. :

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TRANSCRIPT of testimony as taken by  
and before MONIQUE VOUTHOURIS, a Certified Court  
Reporter, RPR, CRR and Notary Public of the States  
of New Jersey and New York, at the offices of  
ARCHER & GREINER, P.C., 21 Main Street, Suite 353,  
Hackensack, New Jersey, on Wednesday, June 18, 2014,  
commencing at 11:05 a.m.

1 APPEARANCES:  
 2 COUNSEL FOR PLAINTIFF:  
 3 THE OTTINGER FIRM, PC  
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 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

[Page 2]

1 MARK SCOTT,  
 2 75 Walker Road, West Orange, New Jersey,  
 3 having been first duly sworn by the Notary,  
 4 testifies as follows:  
 5 EXAMINATION BY MR. GRAFF:  
 6 Q. Good morning, again, Mr. Scott. My  
 7 name, as you heard, is Ari Graff. I'm one of the  
 8 attorneys who is representing Isabel Perez in a  
 9 lawsuit that she filed against Ashley Furniture and  
 10 I'm going to be asking you a series of questions this  
 11 morning.  
 12 Just to be clear, do you understand that  
 13 you have been sworn in and are testifying now under  
 14 oath?  
 15 A. I do.  
 16 Q. Have you testified under oath at a  
 17 deposition before?  
 18 A. No.  
 19 Q. Have you testified at a trial before?  
 20 A. No.  
 21 Q. Have you testified in an arbitration or  
 22 any sort of hearing under oath?  
 23 A. No.  
 24 Q. In connection with the transcript,  
 25 because the court reporter is writing down everything

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1 that's said, if you could continue to please try to  
 2 let me ask my question completely before you start  
 3 speaking and I'll make every effort not to speak over  
 4 you, because she can only write down what one person  
 5 is saying at a time. Do you understand that?  
 6 A. Okay.  
 7 Q. Also for the transcript, if you could  
 8 continue to make your responses orally with spoken  
 9 words rather than a grunt or a nod or something that  
 10 might not be clear on the transcript. Is that okay?  
 11 A. Yes.  
 12 Q. If you don't understand a question that  
 13 I ask, please let me know and I'll repeat or rephrase  
 14 it. Do you understand that?  
 15 A. Yes.  
 16 Q. If I -- if you answer a question that I  
 17 ask, I'll assume that you understood it. So please,  
 18 if you're not sure, don't guess, let me know and I'll  
 19 clarify the question. If you want to take a break,  
 20 please let me know, we can do that whenever you would  
 21 like for as long as you like. I would only ask if  
 22 there is a pending question and you haven't yet  
 23 answered it, that you first then answer that question  
 24 and we can take a break. Is that okay?  
 25 A. Okay.

[Page 5]

[2] (Pages 2 to 5)

<p>1           Q. Was it conducted by human resources' employees?  2           A. Yes.  4           Q. Did you ever receive training on human resources' policies from Ms. Bautista?  6           A. I don't recall.  7           Q. What about from Ms. Martin?  8           A. I don't recall.  9           Q. Can you recall by name or position anybody who trained you on human resources' policies at any time during your employment at the company?  12          A. I don't recall.  13          Q. As senior VP of stores, are there employees who report directly to you as their immediate supervisor?  16          A. Yes.  17          Q. And what positions do they hold?  18          A. District manager, director of merchandising, and director of visual.  20          Q. And currently who is the director of merchandising?  22          A. Tamer Tanius.  23          Q. How long did she hold that position?  24          A. He.  25          Q. Hc.</p>	<p>1           take HR policy training other than as a new hire?  2           A. No.  3           Q. Are any employees at the company, as far as you know, required to undergo HR training apart from -- HR policy training apart from when they're newly hired?  7           MR. HARZ: Objection as to form. If you understand.  9           A. No.  10          Q. As far as you know, apart from Ms. Perez, have any other employees at the company alleged that they were discriminated against based on sexual orientation or gender or national origin or race?  15          MR. HARZ: Objection as to form.  16          A. Yes.  17          Q. Did you have any role in investigating or dealing with those allegations on behalf of the company?  20          A. No.  21          Q. As far as you know, has anybody at the company ever been disciplined for having discriminated against or harassed or retaliated against --  25          MR. HARZ: Objection as to form.</p>
<p>1           A. He has been there roughly maybe a little less time than myself.  3           Q. And the first position you mentioned, was that district manager?  5           A. Um-hmm.  6           Q. Who currently holds that position?  7           A. Jay Travaglini.  8           Q. How long has he held it?  9           A. Roughly five years.  10          Q. And, sorry, I can't read my note on the third position; it was director of?  12          A. Visual.  13          Q. What does director of visual do?  14          A. Goes in to make sure that the -- the visual displays in the stores are up to standards.  16          Q. Who holds that position?  17          A. Karen McCoy.  18          Q. How long has she held it?  19          A. Less than a year.  20          Q. Apart from your new hire training on HR policies, was any other training that you received on HR policies something that was mandatory or required of your position?  24          A. I don't understand the question.  25          Q. Were you required as part of your job to</p>	<p>1           Q. -- any employees?  2           A. No.  3           Q. When did you first meet Isabel Perez?  4           A. During an interview.  5           Q. Were you interviewing her for a position?  7           A. Yes.  8           Q. What position was that?  9           A. Director of HR.  10          Q. And why were you looking to hire somebody as director of HR at that time?  12          A. Again, we were looking to add additional support to the department.  14          Q. And who was already in the department as of that time?  16          A. Kathy Martin.  17          Q. Anyone else?  18          A. There were other people in the department. I don't recall their names specifically that did different roles.  21          Q. And why was it that you were looking to add additional support to the department at that time?  24          A. We were a growing company and we needed to add additional people. We had a growing</p>

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[6] (Pages 18 to 21)

<p>1 communicate with people of all levels in terms of      2 anything that we do. We are very, very big on being      3 able to -- an open door policy with our company, very      4 transparent.</p> <p>5 Q. Apart from what you just described, is      6 there anything else that's distinctive or      7 characterizes the culture of the company as you      8 understand it?</p> <p>9 A. No.</p> <p>10 Q. So when you refer to the culture at the      11 company, you're referring to communication skills,      12 transparency and open door?</p> <p>13 A. Correct.</p> <p>14 Q. Anything else?</p> <p>15 A. No.</p> <p>16 Q. Did you speak with anybody about your      17 interview with Ms. Perez after it was over?</p> <p>18 A. No.</p> <p>19 Q. Did you ever give anybody any feedback      20 on your --</p> <p>21 A. No.</p> <p>22 Q. -- impressions?</p> <p>23 Did anyone ever ask you any questions      24 about your interview with Ms. Perez?</p> <p>25 A. No.</p>	<p>1 process of trying to bring her on board, yes.      2 Q. When she came on board, was it      3 ultimately in the director of HR position?      4 A. I don't recall the exact position that      5 she held as far as what it was, because then we had      6 Kathy involved as well and Kathy was her direct      7 supervisor.      8 Q. Did Ms. Perez have any dotted line or      9 indirect supervisors?      10 A. Meaning?      11 Q. Did Ms. Perez report to anybody other      12 than Kathy Martin?      13 A. No.      14 Q. Who did Ms. Martin report to at the      15 time?      16 A. Mr. Chrinian.      17 Q. Did she report to anybody else?      18 A. No. I mean, she had a dotted line to      19 myself, but that was...      20 Q. When you say a dotted line to yourself,      21 what are you referring to?      22 A. Anything related to stores, you know,      23 she would get me involved with before making any kind      24 of decision, and as someone as an officer for the      25 company, if I saw something that was out of scope,</p>
<p style="text-align: center;">[Page 26]</p> <p>1 Q. Do you know who else Ms. Perez      2 interviewed with?</p> <p>3 A. After she interviewed with me, I believe      4 she interviewed with Eugene.</p> <p>5 Q. Do you know if that happened on the same      6 day?</p> <p>7 A. I don't know.</p> <p>8 Q. Did Eugene ever tell you anything about      9 his interview with Ms. Perez?</p> <p>10 A. After the interview?</p> <p>11 Q. Yes.</p> <p>12 A. Nothing more than that he thought that      13 she would be a good candidate.</p> <p>14 Q. Did he ask you if you agreed with his      15 view?</p> <p>16 A. No, because if I passed him along to      17 her, he knew that I thought she was going to be a      18 good -- I thought she was a good candidate as well.</p> <p>19 Q. Did he tell you that he was going to      20 move forward to hire her for the position?</p> <p>21 A. I don't know if it came from him or      22 Kathy. I don't recall.</p> <p>23 Q. Did you at some point learn that she was      24 going to be taking on a position?</p> <p>25 A. I knew that we were going through the</p>	<p style="text-align: center;">[Page 28]</p> <p>1 obviously I would -- it's my responsibility to try to      2 rectify it.</p> <p>3 Q. Did Isabel Perez have a dotted line      4 reporting arrangement with you like that, too?</p> <p>5 A. No.</p> <p>6 Q. Did she have a dotted line reporting      7 arrangement with anyone else as far as you know?</p> <p>8 A. Not that I know of.</p> <p>9 Q. Did you have any understanding of how      10 the HR functions were going to be divided between      11 Ms. Perez and Ms. Martin?</p> <p>12 A. No.</p> <p>13 Q. So as far as you know -- strike that.      14 Do you know whether there were any      15 duties that were going to be part of Ms. Perez's      16 portfolio rather than Ms. Martin's?</p> <p>17 A. Could you repeat the question?</p> <p>18 Q. Do you know if Ms. Perez had any      19 responsibilities that were not also Ms. Martin's      20 responsibilities?</p> <p>21 A. I believe that Kathy was going to be      22 responsible for some of the -- in charge of the      23 entire department. But I think that Isabel was going      24 to be, and again, I think, on the people side of the      25 business.</p>

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[8] (Pages 26 to 29)

<p>1       Q. And what do you mean -- what is your 2 source of that information?</p> <p>3       A. I know that we were looking for 4 additional support in the department, so I know that 5 Kathy's focus was on the recruiting and that other -- 6 those other aspects.</p> <p>7       Q. And you indicated that Isabel Perez was 8 going to be on the people side. What is the people 9 side?</p> <p>10      A. Just the day-to-day HR -- I don't know 11 exactly what -- the term is I believe a 12 generalist/the day-to-day operations of what an HR 13 department would be.</p> <p>14      Q. Do you know if anybody reported to 15 Ms. Perez as a supervisor during her employment?</p> <p>16      A. I don't know exactly how the reporting 17 went or who was going to report in to who, because I 18 knew all of them ultimately reported to Kathy.</p> <p>19      Q. So you don't know either way whether 20 Ms. Perez was the immediate supervisor of anybody in 21 HR?</p> <p>22      A. Again, I don't know because she wasn't 23 here that long, so I don't know exactly what the 24 set-up was as far as the structure.</p> <p>25      Q. How long was Ms. Perez at the company, [Page 30]</p>	<p>1 for what our company standards are.</p> <p>2       Q. Did you ever see any written description 3 of what Ms. Perez's role or duties were going to be 4 at the company?</p> <p>5       A. No.</p> <p>6       Q. Did Mr. Chrinian ever explain to you in 7 words or in writing what he believed Ms. Perez's role 8 was going to be at the company?</p> <p>9       A. No.</p> <p>10      Q. Did Mr. Chrinian ever say anything to 11 you or communicate anything to you about why he 12 wanted Ms. Perez to work at the company?</p> <p>13      A. I don't recall any conversations 14 directly related to that.</p> <p>15      Q. Did Mr. Chrinian at any point ever say 16 or communicate anything to you about what he believed 17 Ms. Martin's role was at the company?</p> <p>18      A. I don't recall exactly what. I just 19 know that her focus was going to be in charge of all 20 HR, but primarily recruiting.</p> <p>21      Q. Did Mr. Chrinian communicate anything to 22 you as to why that was going to be her focus?</p> <p>23      A. No, because we needed additional support 24 in the department.</p> <p>25      Q. Did he ever communicate anything to you [Page 32]</p>
<p>1 if you know?</p> <p>2       A. Very, very short period of time.</p> <p>3       Q. Would that be a matter of days or weeks 4 or months, or you're not sure?</p> <p>5       A. Definitely it wasn't a month.</p> <p>6       Q. After you finished your interview with 7 Ms. Perez, when is the next time that anybody said 8 anything to you about her that you can recall?</p> <p>9       A. I don't recall when the next time was.</p> <p>10      Q. Did you receive any emails or written 11 communications about Ms. Perez ever?</p> <p>12      MR. HARZ: Objection to form.</p> <p>13      A. Not that I can recall.</p> <p>14      Q. Did you ever send any emails or written 15 communications regarding Ms. Perez to anybody at the 16 company?</p> <p>17      A. Yes.</p> <p>18      Q. And what -- was that a specific email 19 that you have in mind or was there more than one?</p> <p>20      A. One in particular was related to some 21 incidents that took place after she was on board.</p> <p>22      Q. What incidents are you referring to?</p> <p>23      A. Shortly after coming to work for us, 24 there was a big incident in one of our stores where 25 she was -- I heard the behavior was beyond acceptable [Page 31]</p>	<p>1 about what differences, if any, there were going to 2 be between Ms. Martin's role and Ms. Perez's role?</p> <p>3       A. No.</p> <p>4       Q. Going back to the incident that you had 5 mentioned a few moments ago, who was it who informed 6 you about the incident?</p> <p>7       A. My store manager, Neel Jhaveri.</p> <p>8       Q. And was that in spoken communication or 9 something else?</p> <p>10      A. Spoken.</p> <p>11      Q. Was it in person?</p> <p>12      A. No.</p> <p>13      Q. He called you?</p> <p>14      A. Yes.</p> <p>15      Q. Did he call you, as far as you know, on 16 the same day as the incident occurred?</p> <p>17      A. Yes.</p> <p>18      Q. And as best you recall, what did he tell 19 you in that conversation?</p> <p>20      A. The best that I recall, he was upset 21 that and didn't understand that why someone would 22 come in the store and talk to the associates in the 23 way and the manner that she did.</p> <p>24      Q. And what, if anything, did he tell you 25 about how she talked to associates? [Page 33]</p>

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1 A. Very condescending, very disrespectful 2 and not in alignment with anything that he had been 3 in contact with from anyone from the company prior. 4 Q. Did he say anything else that you can 5 recall? 6 A. Not specifically that I would -- that I 7 can recall specifically. 8 Q. Did he indicate one way or another 9 whether Ms. Perez was -- strike that. 10 Did he explain why Ms. Perez was there 11 that day? 12 A. Did he explain why she was there? 13 Q. Yes. 14 A. No. 15 Q. Did you already have some understanding 16 of why it was that Ms. Perez was in his store that 17 day? 18 A. She had started with the company and she 19 was doing a store visit to get to know the 20 associates. 21 Q. Do you know if anyone else from the HR 22 department accompanied her for that visit? 23 A. Yes. 24 Q. And who else? 25 A. Another associate, Theresa I believe her	1 Mr. Travaglini reach out to you? 2 A. Same day. 3 Q. Did Mr. Travaglini tell you how it was 4 that he came to know anything about Ms. Perez's 5 visit? 6 A. He had gotten feedback from associates, 7 as well as Mr. Jhaveri, regarding her behavior. 8 Q. Did he tell you who the associates were? 9 A. No. 10 Q. When he reached out to you, was that by 11 phone or something else? 12 A. Phone. 13 Q. Did you take any notes -- 14 A. No. 15 Q. -- during your discussion with 16 Mr. Jhaveri or with Mr. Travaglini? 17 A. No. 18 Q. Apart from the discussions with 19 Mr. Jhaveri and Mr. Travaglini, do you have any other 20 source of information about Ms. Perez's visit? 21 A. Related to the behavior, no. 22 Q. What about any other aspect of her visit? MR. HARZ: You're talking about the visit to the one store that one day?
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1 name is, her name was, yeah. 2 Q. Did Mr. Jhaveri say anything to you 3 about Theresa in connection with her visit that day? 4 A. Primarily the feedback was regarding 5 Ms. Perez. 6 Q. Did he tell you anything in particular 7 that Ms. Perez had said or done that he had a problem 8 with? 9 A. Just the manner, the tone, and the -- 10 just the outright -- it was not in alignment with 11 anything that we had -- that he had been used to, 12 seen before from anyone from a leadership role. 13 Q. Apart from that discussion with 14 Mr. Jhaveri, do you have any other source of 15 information about what happened at that store visit? 16 A. My district manager also had also 17 reached out to me about it. 18 Q. And who was the district manager at that 19 time? 20 A. Jay Travaglini. 21 Q. Was Jay Travaglini, as far as you know, 22 present in the store at the time of the visit? 23 A. I don't believe he was. 24 Q. In relation to the day of the visit and 25 that incident, at what point in time did	1 MR. GRAFF: Yes. 2 A. Not that I can recall. 3 Q. Did you ever have any communication with 4 anyone other than Mr. Travaglini or Mr. Jhaveri about 5 Ms. Perez's visit to the store that day? 6 A. Prior to I spoke to Kathy. 7 Q. Is that on the same day or -- 8 A. No. I spoke to Kathy and just kind of 9 gave her a heads-up to make sure that, you know, we 10 had -- she gave her a road map for the stores as far as, you know, what to expect, the meetings and so on and so forth. 13 Q. So that was prior to that time when she 14 visited, Ms. Perez visited the store? 15 A. Right, um-hmm. 16 Q. Did you ever have any communication with 17 anyone other than what you've testified to so far regarding Mr. Jhaveri, Mr. Travaglini and Ms. Martin? 19 A. Regarding that visit? 20 Q. Yes. 21 A. Did I have any -- can you ask that question, repeat the question? 22 Q. Other than what you've already described in the last few minutes, did you have any other communication with anyone else at any point about
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<p>1 Ms. Perez's visit to the store that day?</p> <p>2 A. At some point myself, Kathy and Eugene 3 talked about the behavior regarding -- just the 4 outlandish behavior that took place at that visit.</p> <p>5 Q. Was that a conversation among the three 6 of you or something else?</p> <p>7 A. It was an email that -- that ended up as 8 a summation of that visit as well as the other 9 incident that took place, incidents that took place.</p> <p>10 Q. Apart from being told about the manner 11 and tone of Ms. Perez's conduct on that store visit, 12 did you ever obtain from anybody any further details 13 about what she actually said or in what context she 14 said it?</p> <p>15 A. I just -- I received some general 16 feedback from associates regarding the behavior and 17 the tone of the conversations that took place, very 18 condescending, very disrespectful, and again, like I 19 said, not in alignment with anything that any of the 20 associates have been used to from anyone in a 21 leadership standpoint.</p> <p>22 Q. And who are the associates you're 23 referring to?</p> <p>24 A. Our sales associates in the Paramus 25 store.</p>	[Page 38]	<p>1 Q. Why were you in the store at that time?</p> <p>2 A. I do store visits to all the stores.</p> <p>3 Q. Did you take any notes in connection 4 with that feedback?</p> <p>5 A. No.</p> <p>6 Q. Did you indicate to the associates -- 7 strike that.</p> <p>8 How did you respond to the associate or 9 associates when they provided you with that feedback?</p> <p>10 A. I listened to what they had to say.</p> <p>11 Q. Did you say anything back to them?</p> <p>12 A. No, not that I can recall.</p> <p>13 Q. Did you at any point write anything down 14 about the feedback you received from those associates?</p> <p>15 A. No.</p> <p>16 Q. Did you ever pass it along or communicate it to anyone else?</p> <p>17 A. To Kathy.</p> <p>18 Q. Was that in a spoken face-to-face communication?</p> <p>19 A. Spoken over the phone.</p> <p>20 Q. Was that in the same day as you received the feedback or some other time?</p> <p>21 A. I don't recall the exact day I gave her</p>	[Page 40]
<p>1 Q. And specifically who?</p> <p>2 A. I don't -- I don't recall exactly.</p> <p>3 Q. How many different associates gave you 4 feedback of that nature?</p> <p>5 A. I don't recall the exact number. I 6 don't recall the number.</p> <p>7 Q. Did they give you the feedback on the 8 same day as the store visit occurred?</p> <p>9 A. I think it was after a day or two 10 afterwards.</p> <p>11 Q. And whichever and however many of them 12 there were who gave you feedback, did you receive 13 that feedback in a face-to-face communication?</p> <p>14 A. Yeah.</p> <p>15 Q. Did you receive it in any other form of 16 communication?</p> <p>17 A. No.</p> <p>18 Q. Where did you have that communication 19 with associates where they gave you feedback as you 20 described?</p> <p>21 A. In the store.</p> <p>22 Q. Did you receive that feedback with a 23 group of associates simultaneously or something else?</p> <p>24 A. No, it was very sporadic, one or two 25 people that just happened to mention it in passing.</p>	[Page 39]	<p>1 the feedback.</p> <p>2 Q. Does Mr. Jhaveri still work at the 3 company?</p> <p>4 A. Yes.</p> <p>5 Q. What position does he hold?</p> <p>6 A. Sales manager.</p> <p>7 Q. What store?</p> <p>8 A. Paramus.</p> <p>9 Q. Is that the same position he held at the 10 time of Ms. Perez's visit?</p> <p>11 A. Yes.</p> <p>12 Q. So other than what you've already 13 testified about with Mr. Jhaveri, Mr. Travaglini, 14 Ms. Martin and associate feedback, were there any 15 other communications -- strike that. Withdrawn. 16 Did you ever speak directly with 17 Mr. Chriniyan about Ms. Perez's visit to that Paramus store?</p> <p>18 A. No.</p> <p>19 Q. You had referred a few moments ago to 20 another incident or incidents involving Ms. Perez. What were you referring to?</p> <p>21 A. There was an incident that took place at 22 our Secaucus store shortly after the one that took 23 place in the Paramus store, where, again, her</p>	[Page 41]

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<p>1 behavior was beyond acceptable, erratic and not in      2 alignment with anything that's -- the company would      3 accept.</p> <p>4 Q. How did you learn about Ms. Perez's      5 visit to the Secaucus store?</p> <p>6 A. That I got a call from the -- actually,      7 the recruiter that -- and I believe her name was      8 Theresa, and she gave me feedback about the incident      9 that took place between her and Isabel.</p> <p>10 Q. Was that on -- strike that.</p> <p>11 Was the recruiter present at the      12 Secaucus store for that incident?</p> <p>13 A. The incident was between that person and      14 Isabel.</p> <p>15 Q. So -- strike that.</p> <p>16 Was anyone other than Theresa, the      17 recruiter, and Ms. Perez involved or a participant in      18 that incident?</p> <p>19 A. Lisa Thorpe I believe was there.      20 Karen -- not Karen. Kathy was there. Those are the      21 two other people that I can recall, that I remember      22 being there.</p> <p>23 Q. And what were they doing, as far as you      24 know, in the Secaucus store at the time?</p> <p>25 A. I believe they were having a meeting.</p>	<p>1 give you any particulars or specifics as to what      2 actual conduct by Ms. Perez she was characterizing in      3 those ways?</p> <p>4 A. Actually, at the time she basically said      5 that there was a -- they got into a -- I guess      6 Theresa and Isabel having a conversation about      7 related to training -- I'm sorry, recruiting and so      8 on, and that Isabel was raising her voice with her      9 and screaming, yelling, slamming the laptop, closing,      10 slamming the door and was talking to her in a very      11 condescending manner, and then Theresa went on to      12 talk a little bit about Paramus as a sidebar. But it      13 was consistent with what took place in Secaucus.</p> <p>14 Q. Did you ever have communication with      15 anybody else about that fight or HR meeting in      16 Secaucus?</p> <p>17 A. Up until the time when I asked Kathy      18 about it, no.</p> <p>19 Q. Did you at any point have any      20 communication with Lisa Thorpe about that incident?</p> <p>21 A. I want to say that she mentioned      22 something about it, that or something, but I don't      23 recall exactly.</p> <p>24 Q. Did you ever have any communication with      25 Ms. Perez about that incident?</p>
<p>1 again, regarding some planning and strategy for HR.</p> <p>2 Q. Was Theresa -- strike that.</p> <p>3 Do you know the last name of the Theresa      4 you were referring to?</p> <p>5 A. No. Again, I could be incorrect about      6 Theresa. I believe that's her name.</p> <p>7 Q. If I said Theresa Ricciardi, does that      8 ring a bell or sound familiar?</p> <p>9 A. I interview hundreds of people a month.      10 I don't want to assume that the name, the last name      11 is correct.</p>	<p>1 A. No.</p> <p>2 Q. Did you ever have any communication with      3 Ms. Perez about the Paramus store visit?</p> <p>4 A. No.</p> <p>5 Q. Did you ever have any communication with      6 Ms. Perez concerning her work performance at the      7 company?</p> <p>8 A. No.</p> <p>9 Q. Did you ever have any communication with      10 Ms. Perez subsequent to your interview with her?</p> <p>11 A. Did I say that again?</p>
<p>12 Q. Was it somebody who was part of the HR      13 department?</p> <p>14 A. Yes.</p> <p>15 Q. And was that person, possibly Theresa,      16 the first person to tell you anything about the      17 Secaucus store incident?</p> <p>18 A. Yes.</p> <p>19 Q. Other than what you already testified      20 to, did she give you any other details or the context      21 about what upset her about Ms. Perez's conduct?</p> <p>22 A. Could you repeat the question?</p> <p>23 Q. You had mentioned earlier that person      24 Theresa told you that Ms. Perez's behavior was      25 unacceptable, erratic, not up to standards. Did she</p>	<p>12 Q. Apart from interviewing Ms. Perez, did      13 you ever have any communication with her after that?</p> <p>14 A. "Hi" and "Bye" one day.</p> <p>15 Q. So the only time you communicated with      16 her was at her interview?</p> <p>17 A. At the interview and we saw each other      18 in passing, one day she was in one of the stores.</p> <p>19 Q. Do you recall what store?</p> <p>20 A. I believe it was Secaucus.</p> <p>21 Q. Do you know what she was doing in the      22 store at that time?</p> <p>23 A. I don't know. Their offices were in the      24 back of Secaucus, so I'm assuming that she was there      25 for an office visit, I'm assuming.</p>

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<p>1 Q. Did anyone ever tell you anything about      2 Ms. Perez in connection with her being in the      3 Secaucus store on that day when you saw her in      4 passing?</p> <p>5 A. No.</p> <p>6 MR. HARZ: Objection as to form.</p> <p>7 Q. You indicated a few moments ago that at      8 some point you spoke to Kathy Martin or communicated      9 with Kathy Martin about the HR meeting at the      10 Secaucus store. Correct?</p> <p>11 A. Correct.</p> <p>12 Q. Did you contact Ms. Martin for that      13 purpose?</p> <p>14 A. Yes.</p> <p>15 Q. How long after you had first learned      16 about the incident did you reach out to Kathy Martin?</p> <p>17 A. Which incident?</p> <p>18 Q. The Secaucus store.</p> <p>19 A. The next day.</p> <p>20 Q. So a day after you had learned about the      21 incident?</p> <p>22 A. Yes.</p> <p>23 Q. Why did you reach out to her at that      24 time?</p> <p>25 A. Because the behavior was beyond</p>	<p>1 A. She told me a number of things related      2 to Isabel's behavior, and, again, I wouldn't recall      3 all the specifics of them, but they were all      4 consistent with a very, very condescending,      5 unprofessional, lack of -- just not consistent with      6 anything that we have demonstrated within our      7 company.</p> <p>8 Q. Do you recall any of the specifics about      9 what she told you apart from what you've already      10 testified to?</p> <p>11 A. I don't recall any more of the specifics      12 other than just the behavior, some of the things I've      13 already mentioned.</p> <p>14 Q. Is there anything that you haven't      15 already mentioned that you can recall of what she      16 told you?</p> <p>17 A. No.</p> <p>18 Q. Did you take any notes during your call      19 with Ms. Ricciardi that night?</p> <p>20 A. No.</p> <p>21 Q. Did you take any notes during your call      22 with Kathy Martin the following day?</p> <p>23 A. No.</p> <p>24 Q. Did you say anything to Ms. Ricciardi in      25 response to the information that she gave you that</p>
<p style="text-align: center;">[Page 46]</p> <p>1 alarming. Again, this was the second incident for an      2 associate that had just started with our company and      3 it was obvious that there was a major problem that we      4 need to address.</p> <p>5 Q. Was there any particular reason that you      6 waited until the following day to reach out to      7 Ms. Martin?</p> <p>8 A. Well, because Theresa called me around 9      9 o'clock the night before.</p> <p>10 Q. Had Theresa ever called you at late      11 evening or nighttime hours for any reason prior to      12 that?</p> <p>13 A. No.</p> <p>14 Q. Did she call you on a work phone?</p> <p>15 A. Yes.</p> <p>16 Q. Were you at an office at that time?</p> <p>17 A. No.</p> <p>18 Q. Did she call you on -- sorry.      When I asked about work phone, I had in      mind like a phone -- did she call you on your      personal cell phone or company cell phone?</p> <p>19 A. Yes, company cell phone.</p> <p>20 Q. Did Theresa tell you anything else that      21 you haven't already testified about when she called      22 you that night?</p>	<p>1 night?</p> <p>2 A. In regard to?</p> <p>3 Q. Anything.</p> <p>4 A. Only that I would be speaking to Kathy      5 because it was -- it caught me off guard that, for      6 one, she would be contacting me, and I had no idea      7 about what took place prior to her contacting me.</p> <p>8 Q. Did -- when you spoke with Kathy Martin      9 the following day, did she give you any information      10 that you didn't already have from Ms. Ricciardi about      11 what had happened at that meeting?</p> <p>12 A. The information I got from Kathy was      13 consistent with what Theresa said.</p> <p>14 Q. Did you ask Kathy any questions about      15 the incident?</p> <p>16 A. I asked Kathy why Isabel is still      17 working for the company if it's consistent with what      18 Theresa said.</p> <p>19 Q. What did Kathy say in response to that?</p> <p>20 A. Kathy said she was going to talk to      21 Isabel and that was -- the answers weren't good in      22 regard to why that she was there or why she didn't      23 address it.</p> <p>24 Q. Did you ever have any communication with      25 anyone other than Theresa and Kathy Martin about that</p>

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[13] (Pages 46 to 49)

<p>1 HR meeting at the Secaucus store?</p> <p>2 A. Then I spoke -- emailed Kathy and Eugene 3 outlining my conversation with Kathy.</p> <p>4 Q. Earlier you had mentioned that there was 5 an email communication between you and Kathy and 6 Eugene about the Paramus store visit. Is that the 7 same email that you're referring to now?</p> <p>8 A. It was all one-in-the-same, meaning it 9 was the detail of the incident and the reason why I 10 strongly suggested that we should terminate.</p> <p>11 Q. Is that an email that you wrote 12 yourself?</p> <p>13 A. Yes.</p> <p>14 Q. Prior to writing that email or sending 15 that email, did you have any communication with 16 Mr. Chrinian concerning Ms. Perez or her performance 17 at the company?</p> <p>18 A. Not that I can recall.</p> <p>19 Q. Did you ever speak to Mr. Chrinian in 20 person or over the phone about Ms. Perez's 21 performance at the company?</p> <p>22 A. No.</p> <p>23 Q. Did Mr. Chrinian ever send you an email 24 about Ms. Perez's performance at the company?</p> <p>25 A. No.</p>	[Page 50]	<p>1 A. Um-hmm.</p> <p>2 Q. As far as you know, who had the 3 authority or could decide themselves to terminate 4 Ms. Perez?</p> <p>5 A. Either myself or Mr. Chrinian.</p> <p>6 Q. So when you say you strongly suggested 7 it, did that mean something other than you decided it 8 should happen?</p> <p>9 A. Well, it would -- it was in a 10 collaboration with Eugene, who wasn't present, and it 11 was my suggestion to him and her that we move to 12 terminate.</p> <p>13 Q. Did Mr. Chrinian ever respond to your 14 email in any way that you're aware of?</p> <p>15 A. I don't recall.</p> <p>16 Q. Who decided to terminate Isabel Perez? That is, who was the final decisionmaker?</p> <p>17 A. Ultimately it was me.</p> <p>18 Q. Apart from that email, did you do 19 anything else to communicate that you had decided to 20 terminate Isabel?</p> <p>21 A. I don't understand the question.</p> <p>22 Q. Sure. Did you tell anybody to terminate 23 Ms. Perez or do anything to effectuate her 24 termination other than sending that email?</p>	[Page 52]
<p>1 Q. Did Ms. Martin ever send you an email 2 about Ms. Perez's performance at the company?</p> <p>3 A. No.</p> <p>4 Q. Did you ever yourself send an email 5 about Ms. Perez's performance at the company other 6 than the specific email that you mentioned?</p> <p>7 A. No.</p> <p>8 Q. Have you ever, in any context, seen any 9 email that anybody else may have written about 10 Ms. Perez's performance at the company?</p> <p>11 A. No.</p> <p>12 Q. Other than the email that you wrote 13 yourself, did you ever read anything about 14 Ms. Perez's performance at the company?</p> <p>15 A. No.</p> <p>16 Q. Other than the communications that 17 you've already identified, did you ever receive 18 feedback from anybody else about Ms. Perez's 19 performance at the company?</p> <p>20 A. I may have, but I don't recall the 21 specifics of every person that talked to me regarding 22 her performance and the behavior.</p> <p>23 Q. You had indicated a moment ago that in 24 your email you strongly suggested that Ms. Perez be 25 terminated.</p>	[Page 51]	<p>1 A. I don't recall.</p> <p>2 Q. Do you know who actually effectuated or 3 carried out the termination?</p> <p>4 A. I believe it was Kathy and another 5 associate.</p> <p>6 Q. Do you know who the other associate was?</p> <p>7 A. I don't exactly remember who that person 8 was.</p> <p>9 Q. Was it somebody from HR?</p> <p>10 A. I don't know.</p> <p>11 Q. How is it that you know that there was another associate involved in the termination?</p> <p>12 A. Because I believe there was someone else 13 involved and it would normally be protocol that there 14 would be someone else other than just one person.</p> <p>15 Q. What is the protocol that you're referring to?</p> <p>16 A. That if we do a termination, we would have more than one person as a witness.</p> <p>17 Q. Did anybody ever give you any information about anything that happened in connection with Ms. Perez subsequent to when you sent that email?</p> <p>18 MR. HARZ: Objection.</p> <p>19 Q. Let me re-ask the question.</p>	[Page 53]

[14] (Pages 50 to 53)

<p>1           MR. HARZ: If you understand it, you can 2        answer. 3        A. I don't. 4        Q. I'll re-ask the question. 5           After sending the email that you 6        referred to where you strongly suggested that 7        Ms. Perez be terminated, did you have any 8        communication with anyone else at the company about 9        Ms. Perez prior to Ms. Perez ending her employment 10      with the company? 11           So between the time of your email and 12     Ms. Perez's termination, did you have any 13     communication with anyone at the company about 14     Ms. Perez? 15        A. Not that I can recall. 16        Q. As you sit here today -- strike that. 17           As best you can recall, has Mr. Chrinian 18     ever said anything to you about Ms. Perez in words or 19     in writing? 20        A. No. When you say that, prior to her 21     being here? During her employment here? 22        Q. After your interview with Ms. Perez 23     right up until today, so when you interviewed her for 24     a position until today, has Mr. Chrinian in that 25     period of time said anything to you in words or in</p>	<p>1        Q. Did you at any point in time become 2        aware that Ms. Perez is a lesbian or is married to a 3        woman? 4        A. No. 5        Q. Did you ever -- strike that. 6           Did anyone ever tell you that she is a 7        lesbian or married to a woman prior to the last 8        moment? 9        A. No. 10      Q. Did you ever tell anybody that you 11     thought she may be a lesbian at any point? 12        A. No. 13      Q. Did you ever have any communication with 14     anyone about Ms. Perez's sexual orientation? 15        A. No. 16      Q. Did anyone ever tell you that Ms. Perez 17     had complained about anything in particular during 18     her employment with the company? 19        A. No. 20      Q. Did anyone ever tell you anything about 21     anything Ms. Perez did at the company during her 22     employment apart from in connection with the Paramus 23     and Secaucus store incidents that we've discussed? 24        A. Nothing -- the only feedback I have 25     gotten regarding her was related to work performance</p>
<p>[Page 54]</p>	<p>[Page 56]</p>
<p>1        writing regarding Ms. Perez? 2        A. I'm sure we've spoken to -- about 3        Ms. Perez and any associates that would be coming to 4        the company. 5        Q. Would that be prior to her starting to 6        work at the company? 7        A. Yeah. 8        Q. What about during her employment at the 9        company, did you have any communication with 10      Ms. Perez -- excuse me. 11      During Ms. Perez's employment with the 12     company, did Mr. Chrinian say or write anything to 13     you about Ms. Perez? 14        A. No, not that I can recall. 15        Q. How about after her termination, did 16     Mr. Chrinian communicate anything to you about her 17     after she left the company? 18        A. No. 19        Q. So from Ms. Perez's first day of work 20     until today, did Mr. Chrinian communicate anything to 21     you about Ms. Perez? 22        A. Again, I am sure we might have had -- 23     her name may have come up like any other associate, 24     but I don't recall anything specific that we talked 25     about.</p>	<p>1        and related to the erratic behavior and such. 2        Q. Is that what you've already testified to 3        or is there something else? 4        A. As I said before, there was different 5        things said that I don't recall every piece of it, 6        but I'm sure that I may be missing something. 7        Q. Do you recall at this time anything that 8        you haven't already said about that subject? 9        A. No. 10      Q. Did the company hire anybody to replace 11     Ms. Perez after she was terminated? 12        A. I don't think so. We have a new HR 13     person now, but I don't know if that one I guess 14     replaced Kathy or the person prior to that. 15        Q. At what point in time -- strike that. 16      After Ms. Perez ended her employment, 17     did Kathy Martin continue her employment for some 18     period of time? 19        A. Yes. 20      MR. HARZ: Objection to form. 21      Q. Was anybody else brought in in a 22     director or senior role in HR from the time Ms. Perez 23     left until the time Ms. Martin left? 24        A. Not that I can recall, no. 25        Q. Do you have any information about why</p>
<p>[Page 55]</p>	<p>[Page 57]</p>

[15] (Pages 54 to 57)

<p>1 that store visit with Ms. Perez?</p> <p>2 A. No.</p> <p>3 Q. And you, yourself --</p> <p>4 A. When you say that, I'm sorry, if you're</p> <p>5 asking me if I gave feedback to Kathy, I did.</p> <p>6 Q. Okay. Did you ever give any feedback on</p> <p>7 that visit to Ms. Perez directly?</p> <p>8 A. No.</p> <p>9 Q. Could I ask you to please read the next</p> <p>10 sentence?</p> <p>11 A. "Isabella's even passed a comment that</p> <p>12 even you need to be coached on how to run an HR</p> <p>13 department. I was told that Neel gave you this</p> <p>14 feedback directly."</p> <p>15 Q. What was the source of your information</p> <p>16 that you put down in that paragraph? That is, did</p> <p>17 Neel tell you --</p> <p>18 A. Neel, Neel told me.</p> <p>19 Q. Do you believe that Kathy Martin would</p> <p>20 have benefited on being coached on how to run the HR</p> <p>21 department during your employment?</p> <p>22 A. That's very subjective. I don't know</p> <p>23 that. I'm not an HR department specialist. But I do</p> <p>24 know that if someone in leadership has a comment or</p> <p>25 wants to make a statement to someone about someone in</p>	<p>1 A. Theresa.</p> <p>2 Q. Do you know, looking again at the date</p> <p>3 of this letter, Sunday, October 7, do you know on</p> <p>4 what date that Theresa was terminated?</p> <p>5 A. I don't recall. I'm sorry. I believe</p> <p>6 it was that Friday, that day.</p> <p>7 Q. So Friday the 5th?</p> <p>8 A. Correct.</p> <p>9 Q. Is that the same day that Theresa called</p> <p>10 you or the same night that Theresa called you?</p> <p>11 A. Yes.</p> <p>12 Q. So was it your -- strike that.</p> <p>13 How did you learn that Ms. Ricciardi had</p> <p>14 been terminated on the 6th? Was it when she called</p> <p>15 you --</p> <p>16 MR. HARZ: On the 5th.</p> <p>17 Q. On the 5th. Thank you.</p> <p>18 A. When she called me.</p> <p>19 Q. Did you direct anyone to terminate her</p> <p>20 prior -- strike that.</p> <p>21 Did you direct anybody to terminate her?</p> <p>22 A. No.</p> <p>23 Q. Do you know who decided to terminate</p> <p>24 her?</p> <p>25 A. I wasn't there in the room, so I</p>
<p>[Page 70]</p> <p>1 leadership, they should probably make it to them</p> <p>2 directly.</p> <p>3 Q. If I could ask you to drop down to the</p> <p>4 fourth short paragraph from the bottom on this page,</p> <p>5 it starts off, "It is obvious," and I don't want to</p> <p>6 present anything to you out of context. If you want</p> <p>7 to take a minute just to read through what came</p> <p>8 above.</p> <p>9 A. You want me to read that paragraph, just</p> <p>10 review it again?</p>	<p>1 couldn't give you a specific on who exactly was the</p> <p>2 person that made the decision to term.</p> <p>3 Q. Do you know who as of Friday the 5th had</p> <p>4 the authority to terminate Ms. Ricciardi at the</p> <p>5 company?</p> <p>6 A. That would have been Kathy.</p> <p>7 Q. Kathy Martin?</p> <p>8 A. Correct.</p> <p>9 Q. Is it -- strike that.</p> <p>10 Do you have any reason to believe or any</p>
<p>11 Q. Well, my questions are going to relate</p> <p>12 to the "It is obvious" paragraph, but since I'm</p> <p>13 skipping ahead, if you want to read to yourself that</p> <p>14 stuff in the middle so you have context.</p> <p>15 A. Okay.</p> <p>16 Q. Could I ask you to read the "It is</p> <p>17 obvious" paragraph for the record?</p> <p>18 A. "It is obvious that we are not going to</p> <p>19 allow either of them to continue forward with the</p> <p>20 company as a result of their actions in the store or</p> <p>21 their collective actions on Friday that were</p> <p>22 displayed toward each other."</p> <p>23 Q. And just for the record, the two people</p> <p>24 that you're referring to are Ms. Perez and who was</p> <p>25 the second person?</p>	<p>11 information that would lead you to believe that</p> <p>12 somebody other than Kathy Martin was responsible for</p> <p>13 deciding to terminate Ms. Ricciardi?</p> <p>14 A. Well, as I stated earlier, I don't know</p> <p>15 the exact structure of how the department was going</p> <p>16 to be structured. So, therefore, I could only refer</p> <p>17 to Kathy because she was the only one that was in</p> <p>18 place at the time that was in charge of the</p> <p>19 department.</p> <p>20 Q. At the time that you wrote this email,</p> <p>21 Scott-1, had Ms. Martin already told you that she had</p> <p>22 terminated Ms. Ricciardi?</p> <p>23 A. When I wrote -- when I wrote this email</p> <p>24 did she tell me?</p> <p>25 Q. I could ask it in a better way.</p>

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[Page 73]

[19] (Pages 70 to 73)

1 I understand from your testimony that  
 2 you've learned that Ms. Ricciardi had been terminated  
 3 when she called you on the night of Friday the 5th.  
 4 Is that right?

5 A. When Ms. Ricciardi called me on the  
 6 night of the 5th, she was, for lack of a better word,  
 7 protesting what she feels was her termination and  
 8 wanted to know whether or not I knew about it and had  
 9 I had any time to talk about it and I had no  
 10 knowledge whatsoever to her termination.

11 Q. So I guess to answer your question, did  
 12 I know that she was termed on the 5th? I didn't know  
 13 because I was told on the 5th, the night of that she  
 14 was termed.

15 Q. When you called Kathy Martin the next  
 16 day on the 6th, did you discuss Ms. Ricciardi's  
 17 termination?

18 A. Yes, absolutely.

19 Q. And what did Ms. Martin tell you about  
 20 it?

21 A. Basically that she was -- basically what  
 22 she told me was that both of them were acting in a  
 23 behavior that was unacceptable and that Ms. Ricciardi  
 24 was also acting in a way that was unacceptable and I  
 25 don't know the -- remember all the specifics to it.

[Page 74]

1 A. We may have had an -- and again, I don't  
 2 recall specifically. We may have had conversations  
 3 about what took place and it may have involved, you  
 4 know, just the on boarding process piece of it. But,  
 5 again, I can't directly say that one way or the  
 6 other.

7 Q. Could I ask you to please read the last  
 8 paragraph on this first page.

9 A. "I'm also disappointed that this could  
 10 have all been avoided had we agreed to not hire the  
 11 person as a company employee versus a contractual  
 12 employee and now we have exposed our company  
 13 unnecessarily to the explained" -- "unnecessarily to  
 14 having to explain the comments and actions from the  
 15 past week."

16 Q. Did you have any communications with  
 17 people prior to Ms. Perez being hired about whether  
 18 she would -- strike that.

19 What were you referring to by company  
 20 employee versus contractual employee?

21 A. It was my opinion that we've had a lot  
 22 of HR folks and we needed to just vet out the  
 23 opportunity, if it was that we hire someone as a  
 24 contractual employee versus bringing them on to the  
 25 company to make sure that they are going to work out

[Page 76]

1 Q. Did Ms. Martin suggest or recommend that  
 2 Ms. Perez be terminated when you spoke to her on  
 3 Saturday the 6th?

4 A. She was -- again, I don't want to put  
 5 words in her mouth or speculate on as to what her  
 6 mindset was, but I knew it was something of a topic  
 7 that she had on her mind as well.

8 Q. Did she say words to you suggesting or  
 9 encouraging or asking for permission to terminate  
 10 Ms. Perez?

11 A. Well, Kathy didn't have the ultimate

12 authority to do so. And it was, as stated, it was my  
 13 urging and pushing, prodding based on all the facts  
 14 that on the multiple incidents that led to the  
 15 termination.

16 Q. Did Ms. Martin express to you directly  
 17 that she believed that Ms. Perez should be terminated  
 18 as a result of those incidents?

19 A. I don't recall exactly what -- I just  
 20 know that she was struggling with the decision.

21 Q. Did either Ms. Martin or Mr. Chrinian  
 22 respond by email to your email here?

23 A. Not that I can recall.

24 Q. Did you ever discuss this email with  
 25 Mr. Chrinian after it was sent?

1 rather than just bringing them on and later out  
 2 finding out that they didn't.

3 Q. Could you tell me what you mean by  
 4 contractual?

5 A. Contractual like on a consultant basis.

6 Q. Does the tax phrase "1099" mean anything  
 7 to you?

8 A. I don't know exactly how the accounting  
 9 structure would work. But rather than someone  
 10 working directly and employed by the company, they  
 11 would be a contract employee, meaning either we would

12 hire them from a company or that we would have them,  
 13 you know, work -- not hire them. I'm sorry. They  
 14 would work separate from working for the company  
 15 directly.

16 Q. I understand, I think.

17 MR. HARZ: Well, I'm going to ask you  
 18 not to editorialize on his responses, please.

19 Q. And when you wrote that "had we agreed  
 20 to not hire the person as a company employee versus"  
 21 -- strike that.

22 Was Ms. Perez, to your understanding,  
 23 hired as a company employee as you used the term  
 24 here?

25 A. Yes.

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[20] (Pages 74 to 77)

Scout 1

Kathy Martin

From: Mark Scott [mascott@ashleyne.com]  
Sent: Sunday, October 07, 2012 1:31 PM  
To: Kathy Martin  
Cc: Eugene Christian; mscott  
Subject: Paramus/Separation Discussion

Kathy, I received additional information regarding Isabella and Theresa's visit to Paramus store.

Apparently there was a degree of a "witch hunt" mentality such as a new sheriff in town type of conversations. Things related people will be written up and termed based on following the rules going forward. During the huddle Isabella is "correcting" Neel and how he is interacting with the product specialist.

Isabella's even passed a comment that even you (Kathy) needs to be coached on how to run a HR department?? I was told that Neel gave you this feedback directly.

Kathy, as I type this email I am BEYOND livid having to hear from my people about the events that took place in one of our best cultured stores with one of my best examples of management and leadership. I trusted you to handle the introduction of these two new people and I insisted that each of them spend one week with the managers LEARNING the culture and what our people do.

We are not a shipwreck organization needing major overhaul in how we treat our people, in fact we go out of our way to create the best working environment possible. As an aside in three years we have NEVER had one complaint about a manager or associate issue from store that was not handled within the boundaries of proper protocol.

I know Jay gave you feedback and I realize you did not tell them to act in this way but either way it happened and now we are dealing with associates that are very upset with what they believed is going to be the "new" direction of the company related with how we treat our people.

What I have a major issue with is that NO person can come into our company without some sort of moral compass to what we are about or what we stand for. These two people were allowed to run without any guidance and now we are dealing with results of their actions.

It is obvious that we are not going to allow either of them to continue forward with the company as a result of their actions in the store or their collective actions on Friday that were displayed towards each other.

You will follow through with the termination of Isabella tomorrow as we agreed she is not a good fit for our organization and I think you would agree that the two of you have not (nor will not) see eye to eye on how to work together. If I am hearing some of this back biting and back stabbing stuff I am sure you are hearing even more.

Please confirm first thing tomorrow that the termination has taken place. You did say to me that you had discussions with her already about her introduction period.

I am also disappointed that this could have all been avoided had we agreed to not hire the person as a company employee vs. contractual employee and now we have exposed our company unnecessarily to having to explain the comments and actions from the past week.

lastly, going forward you and I will partner on all decisions regarding these things in so  
that it never happens again.

Please free to call me to discuss.

# EXHIBIT H

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
No. 13 Civ. 327 (DMC) (MF)

ISABEL PEREZ, :  
Plaintiff, :  
-vs- : COPY  
FACTORY DIRECT OF SECAUCUS, LLC :  
d/b/a ASHLEY FURNITURE  
HOMESTORE, EUGENE CHRINIAN, in :  
his official and individual :  
capacities, and KATHY MARTIN, : DEPOSITION OF:  
in her official and individual : ISABEL PEREZ  
capacities,  
Defendants/  
Third-Party  
Plaintiffs, :  
-vs- :  
THE OTTINGER FIRM, P.C., :  
Third-Party  
Defendant.  
:

B E F O R E:

SHARON B. STOPPIELLO, a Certified Court Reporter and Notary Public of the State of New Jersey, at the offices of ARCHER & GREINER, P.C., 21 Main Street, Hackensack, New Jersey, on THURSDAY, JULY 11, 2013, commencing at 10:02 a.m., pursuant to Notice.

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1 individuals and as a unit." And the next paragraph  
 2 you state, did you not, "In recent years, he's been  
 3 distracted by growth and when looking at the demand  
 4 has realized that there are areas of great  
 5 disrepair. He is a big picture thinker with sharp  
 6 focus on objectives... I see his desire to earnestly  
 7 make a difference that will impact the overall  
 8 organizational health in a VERY powerful manner. It  
 9 will be a pleasure to work for them, as individuals  
 10 and as a unit. They are like minded, enterprising  
 11 executives with a vision. I know I will call it  
 12 home with their organization." You wrote that, as  
 13 well, did you not?

14 A. Yes.

15 Q. Ms. Perez?

16 A. Yes.

17 Q. You wrote that, as well?

18 A. Yes.

19 Q. Did you ever mention in any e-mail to  
 20 Ms. Cipriani that Mr. Chrinian or Ms. Martin or  
 21 anyone else you met with made any inappropriate  
 22 comments or asked any inappropriate questions?

23 A. No. I usually don't discuss those  
 24 things.

25 Q. Please answer yes or no. You didn't?

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1 question.

2 I asked you if you were aware that Ms.  
 3 Martin was an Episcopalian minister?

4 A. No.

5 Q. Didn't you ask her during your  
 6 interview about her being an Episcopalian minister?

7 A. No.

8 Q. You are an Episcopalian minister; is  
 9 that correct?

10 A. Yes.

11 Q. Is that why you brought up the fact  
 12 with her that she was an Episcopalian minister?

13 MR. GRAFF: Objection.

14 Q. Answer the question.

15 A. I did not bring anything to do with  
 16 her being anything.

17 Q. Anything to do with anything?

18 A. Religious.

19 Q. After your interviews you were  
 20 offered a position with Ashley, correct?

21 A. I'm sorry, repeat that.

22 Q. After your interviews you were  
 23 offered a position with Ashley, correct?

24 A. Yes.

25 Q. What was that position?

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1 A. I don't usually ask those questions,  
 2 no.

3 Q. So you did not, correct?

4 MR. GRAFF: Just answer yes or no.

5 Q. I asked you if you ever mentioned in  
 6 an e-mail that Mr. Chrinian, Ms. Martin or anyone  
 7 that you met at Ashley made any inappropriate  
 8 comments or asked any inappropriate questions? You

9 did not, correct?

10 A. No.

11 Q. Prior to your interviews, had you  
 12 researched Ms. Martin and/or Mr. Chrinian to prepare  
 13 for your interview?

14 A. No, just what was on their website.

15 Q. Well, in fact, you were aware that  
 16 Ms. Martin was an Episcopalian minister, correct?

17 A. No. I am.

18 Q. Please answer my question. I didn't  
 19 ask you what you are --

20 A. No.

21 Q. -- I asked you what she was.

22 A. I didn't know that.

23 Q. I ask you, please, as your counsel  
 24 instructed you earlier, don't step on my words.  
 25 Wait for me to finish my question and then answer my

Page 35

Page 36

1 A. Director of human resources.

2 Q. Let's go through your employment  
 3 history with Ashley for a moment. What positions  
 4 did you hold with Ashley Furniture HomeStores?

5 A. Director of human resources.

6 Q. Any other position?

7 A. No.

8 Q. What was your start date with Ashley?

9 A. September 25th.

10 Q. What year?

11 A. 2012.

12 Q. What was the length of your  
 13 employment with Ashley Furniture HomeStores?

14 A. Until October 8th, 2012.

15 Q. So you were employed from  
 16 September 25, 2012 through October 8, 2012? I'm  
 17 sorry, but the --

18 A. Yes.

19 Q. -- court reporter can't understand a  
 20 nod.

21 A. Yes.

22 Q. Thank you.

23 What was the location of your employment?

24 MR. GRAFF: Objection.

25 MR. HARZ: You're objecting to the

<p style="text-align: center;">Page 62</p> <p>1 A. I don't recall. 2 Q. Was the term "nigga" ever said to 3 you? 4 A. Directed at me? 5 Q. Yes. 6 A. No. 7 Q. Was the term "fag" ever directed at 8 you? 9 A. No. 10 Q. What are other terms that you found 11 to be retaliatory? 12 A. "Dike." 13 Q. "Dike" is not mentioned in your 14 complaint. 15 A. "Lesbo." 16 Q. Is this something new? 17 A. No, it's interchangeable, "lesbo, 18 dike, fag," it was just used. 19 Q. But "dike" was not mentioned in your 20 complaint, is it? 21 A. But it's in my notes. 22 Q. "Dike" is not mentioned in your 23 complaint, is it? 24 MR. GRAFF: Do you want her to review 25 the complaint?</p>	<p style="text-align: center;">Page 64</p> <p>1 Q. What other terms do you feel were 2 retaliatory? 3 A. That's it. 4 Q. You mentioned "lesbo." Was the term 5 "lesbo" ever directed at you? 6 A. Yes. 7 Q. By whom? 8 A. Ms. Martin. 9 Q. When did Ms. Martin refer to you or 10 use the term "lesbo" at you? 11 A. Three or four times. Twice in a 12 meeting when she was questioning my husband's 13 sexual -- I mean whether I had a husband. Once 14 outside when we dismissed Ms. Ricciardi and she 15 noticed my human rights campaign decal, when she 16 prayed for me with her hands on my head. 17 Q. She called you a "lesbo" when she 18 prayed for you? 19 A. Before she prayed for me. 20 Q. When did she call you a "lesbo"? 21 A. She called me a lesbo right before 22 she laid her hands on me for prayer. 23 Q. Any other terms that you feel were 24 retaliatory? 25 A. No.</p>
<p style="text-align: center;">Page 63</p> <p>1 MR. HARZ: Please. 2 A. No, the words that are used here are 3 different. 4 Q. So "dike" is not mentioned in your 5 complaint, is it? 6 A. No. 7 Q. What other words were used which you 8 felt were retaliatory? 9 A. "Ghetto," referring to the 10 administrative assistant's behavior and speech. She 11 was called "ghetto" to her face. "Bitch" between 12 the administrative staff. And myself and the 13 director "Lesbo." 14 Q. Was the term "ghetto" ever used at 15 you? 16 A. No. 17 Q. Was the term "bitch" ever used at 18 you? 19 A. Yes. 20 Q. By whom? 21 A. Ms. Ricciardi, also Ms. Thorpe. 22 Q. That is Theresa Ricciardi? 23 A. Yes. 24 Q. Was she your supervisor? 25 A. No.</p>	<p style="text-align: center;">Page 65</p> <p>1 Q. Do you feel that you were retaliated 2 against in any other way? 3 MR. GRAFF: Objection. 4 Q. Answer the question. 5 A. Yes. 6 Q. How? 7 A. I was fired. 8 Q. Is that the only reason? 9 MR. GRAFF: Objection. 10 Q. Pardon me? 11 A. No. 12 Q. How else do you feel you were 13 retaliated against? 14 A. When I said I was an Episcopalian 15 minister, I was asked if I was a true Christian. 16 Q. Who asked you if you were a true 17 Christian? 18 A. Both Mr. Chrinian and Ms. Martin. 19 Q. Do you want to take a couple of 20 minutes? 21 A. No. Thank you. 22 Q. What facts do you have to support 23 your claim that you were terminated for complaining 24 about or objecting to Ms. Martin's actions? 25 A. Only Mr. Alfred Nunez who was in the</p>

19 (Pages 70 to 73)

Page 70

1 MR. GRAFF: I'm not sure that she was  
2 done with her answer.

3 Q. Allegations concerning Ms. Martin  
4 making any statements about Mark Scott are not in  
5 your complaint; isn't that correct?

6 A. No, because it's --

7 Q. I didn't ask you why, but they're not  
8 in your complaint, correct?

9 A. No.

10 Q. Allegations about Ms. Martin making  
11 any statements about Mr. Chrinnian are not in your  
12 complaint; is that correct?

13 A. No. No.

14 Q. "No," it's not correct?

15 A. They're not in the complaint.

16 Q. Thank you. Isn't it true that you  
17 were told that you were being terminated because you  
18 didn't make a good fit in Ashley?

19 A. Yes.

20 Q. Isn't it true that prior to your  
21 employment with Ashley, you attended a meeting at  
22 Automatic Data Processing, ADP, with --

23 A. Yes.

24 Q. Let me finish my question -- with  
25 Lisa Thorpe, Amber Dominquez and Ms. Martin on

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1 Martin that you were not happy with the way things  
2 were going; isn't that correct?

3 A. No.

4 Q. What did you say to her?

5 A. I told her that there were issues  
6 with the way that her own staff is communicating.

7 Q. And you didn't use the expression  
8 "I'm not happy with the way things are going"?

9 A. I don't remember if that was the  
10 exact expression.

11 Q. You also told Ms. Martin that Ashley  
12 Furniture had a culture of "being enabled," didn't  
13 you?

14 A. Enabling.

15 Q. Enabling?

16 A. Yes.

17 Q. Thank you.

18 A. And that she was personally an  
19 enabler.

20 Q. Please just answer the questions.

21 A. That was the whole thing.

22 Q. You'll have an opportunity to  
23 editorialize if your own attorney wants to ask you  
24 questions. In the meantime, please just answer my  
25 questions.

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1 September 19th, 2012?

2 A. Yes.

3 Q. And you had some personality  
4 conflicts with Lisa Thorpe and Amber Dominquez at  
5 that meeting, correct?

6 A. No.

7 Q. You objected to some of the questions  
8 that Lisa and Amber were asking of the ADP speaker;

9 isn't that correct?

10 A. Yes.

11 Q. And didn't you tell Ms. Martin that  
12 Lisa and Amber were standoffish?

13 A. Yes.

14 Q. And didn't you tell Ms. Martin that  
15 Lisa was being rude?

16 A. Yes.

17 Q. And you actually tape recorded this  
18 meeting, didn't you?

19 A. Yes.

20 Q. And you did not tell the others you  
21 were tape recording this meeting at that time; is  
22 that correct?

23 A. I told everyone that I was recording  
24 the meeting.

25 Q. At the end of the day you told Ms.

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1 MR. GRAFF: Counselor, she was  
2 answering the question.

3 MR. HARZ: No, she wasn't. She went  
4 beyond and was editorializing. Please just answer  
5 my questions.

6 Q. Two days later on September 21st you  
7 had a meeting with Ms. Martin, didn't you?

8 A. Yes.

9 Q. And this meeting was at Ms. Martin's  
10 request, was it not?

11 A. Yes.

12 Q. It was a long meeting, wasn't it?

13 A. About four hours, five hours.

14 Q. During that meeting she discussed  
15 some of the concerns she had, particularly regarding  
16 your interactions with Amber and Lisa on  
17 September 19th, correct?

18 A. No.

19 Q. Ms. Martin also expressed to you that  
20 she didn't want you to move so fast because Ashley  
21 had already seen a lot of recent changes, didn't  
22 she?

23 A. Yes.

24 Q. And she also mentioned to you that  
25 she wanted to be strategic about how she could

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<p>1 introduce you to the employees before you became 2 part of this organization; isn't that correct? 3     A. Yes. 4     Q. She also discussed how the two of you 5 needed to be "on the same page" was the expression 6 she used; isn't that correct? 7     A. Yes. 8     Q. And she said if you couldn't be on 9 the same page, she did not want you working at 10 Ashley; isn't that correct? 11    A. No. 12    Q. Would you be surprised to hear that 13 she's prepared to testify that she did say that to 14 you? 15    A. Yes. 16    Q. And you agreed to work with her, 17 correct? 18    A. Yes. 19    Q. In fact, the plan at the end of the 20 meeting was for you to work with Ms. Martin, and 21 that Ms. Martin would retain supervision over Lisa 22 and Amber for the time being, correct? 23    A. No. 24    Q. Would it surprise you to hear that 25 Lisa and Amber understood, as well, that they were</p>	<p>1     A. Yes. 2     Q. On this same day you talked strategy, 3 recruiting and the reporting system with Ms. Martin, 4 correct? 5     A. With everyone, not just Ms. Martin, 6 Ms. Thorpe, Ms. Ricciardi, it was recorded. 7     Q. I'm talking about the meeting you 8 attended on September 24th. 9     A. Yes, and it was recorded. 10    Q. And it was agreed that Ms. Martin was 11 going to hold the H.R. functions and slowly 12 transition them to you; isn't that correct? 13    A. No. 14    Q. And that same day you had issues with 15 Amber and Lisa, correct? 16    A. No. 17    Q. Didn't the meeting turn tense between 18 you and Amber and Lisa? 19    A. No. 20    Q. And at one point in front of everyone 21 didn't you say that Ms. Martin was on leadership 22 team and therefore she didn't need to be bothered 23 with things such as strategy? 24    A. Yes. 25    Q. After that you started working on</p>
<p>1 to continue to report to Kathy Martin and not you? 2     A. I would be surprised, yes. 3     Q. And you were also reminded at this 4 meeting by Kathy Martin that you were under a 90-day 5 probationary period and you would be watched 6 closely; isn't that correct? 7     A. No. 8     Q. And this was to make certain that you 9 would be a good fit at Ashley, correct? 10    A. No. 11    Q. And you were told not to let go of 12 all your consulting contracts just yet to make 13 certain that things actually worked out; isn't that 14 correct? 15    A. Yes. 16    Q. There was another meeting you 17 attended on September 24th; isn't that correct? 18    A. Yes. 19    Q. And you asked to have this meeting to 20 meet with Theresa Ricciardi, correct? 21    A. I did not. 22    Q. Who asked to have the meeting? 23    A. Ms. Martin. 24    Q. Lisa and Amber were also at the 25 meeting, correct?</p>	<p>1     September 25th, correct? 2     A. Yes. 3     Q. Immediately after starting didn't you 4 inform both Amber and Lisa that you were to run H.R. 5 and that they no longer reported to Kathy Martin? 6     A. Yes. 7     Q. Isn't this contrary to what you had 8 agreed to with Ms. Martin previously? 9     A. No. 10    Q. Didn't you also inform Amber and Lisa 11 that Ashley, Mr. Chrinian and Ms. Martin were 12 looking to terminate them? 13    A. Ms. Dominquez, yes. 14    Q. Didn't you also inform them that 15 Eugene Chrinian and Kathy Martin had a file on them? 16    A. Yes, I informed them that they had 17 files on everyone, but that they specifically had a 18 file on Ms. Dominquez that they were looking after, 19 specifically Ms. Dominquez, not Ms. Thorpe. 20    Q. You told them that you were brought 21 in to fix the culture at the company; isn't that 22 correct? 23    A. Yes. 24    Q. And you had certain closed-door 25 meetings with Amber Dominquez; isn't that correct?</p>

<p style="text-align: right;">Page 82</p> <p>1 They go over how to attract the customer and      2 maintain them while they're there. Also how to      3 interact with each other. If there are any loose      4 ends from the day before that needed to be hit or if      5 they had to call customers or clients, and also to      6 go over any payroll and H.R. or information that was      7 missing and may be needed for the week.</p> <p>8 Q. You asked Neel Jhaveri if you could      9 discuss H.R. matters at the huddles, correct?</p> <p>10 A. Ms. Martin did, I did not.</p> <p>11 Q. Were you there when she asked him?</p> <p>12 A. No, she e-mailed me.</p> <p>13 Q. So you didn't see or hear Ms. Martin      14 ask him if you could talk about H.R. matters at the      15 huddles, correct?</p> <p>16 A. No, but when we were at other      17 huddles, she was the one who performed the --</p> <p>18 Q. Please answer my question.</p> <p>19 A. She initially performed the      20 huddles --</p> <p>21 Q. Please --</p> <p>22 A. -- and I modeled her.</p> <p>23 Q. Please answer my question. Did you      24 actually see or see her ask --</p> <p>25 A. I saw the message that she sent to</p>	<p style="text-align: right;">Page 84</p> <p>1 Would it surprise you to hear that Neel Jhaveri is      2 prepared to testify that you did in a threatening      3 way say to employees, "If you're absent a third time      4 you're going to be terminated"?</p> <p>5 A. No, that would not surprise me.</p> <p>6 Q. Were there actually any attendance      7 problems at Paramus?</p> <p>8 A. I don't remember.</p> <p>9 Q. The record would show that there      10 actually weren't any attendance problems at Paramus;      11 isn't that correct?</p> <p>12 A. I don't know.</p> <p>13 Q. Did you even know when you went up      14 there if there were attendance problems?</p> <p>15 A. I did not.</p> <p>16 Q. Isn't it fair to say that you were      17 very confrontational with the employees?</p> <p>18 MR. GRAFF: Objection.</p> <p>19 Q. Answer the question.</p> <p>20 A. No.</p> <p>21 Q. And didn't you, in fact, cut off Mr.      22 Jhaveri as he was trying to talk to his employees?</p> <p>23 A. No.</p> <p>24 Q. In fact, didn't Mr. Jhaveri take you      25 aside and ask to talk to you about what had</p>
<p style="text-align: right;">Page 83</p> <p>1 him, yes.</p> <p>2 Q. But you didn't actually see or hear      3 her ask him if you --</p> <p>4 A. I saw the message she sent him, an      5 e-mail.</p> <p>6 Q. And that's all, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Thank you.</p> <p>9 During the morning huddle you talked to the      10 employees about the attendance policy; isn't that      11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you said to the employees that a      14 third violation of the attendance policy would      15 result in termination, did you not?</p> <p>16 A. I don't recall. If that was what I      17 was asked to say, then yes.</p> <p>18 Q. Well, even if it wasn't what you were      19 asked to say --</p> <p>20 A. I don't recall.</p> <p>21 Q. Would it surprise you to hear that      22 Neel Jhaveri is prepared to testify that you did say      23 to the employees --</p> <p>24 A. No, it does not surprise me.</p> <p>25 Q. Can I finish my question, please?</p>	<p style="text-align: right;">Page 85</p> <p>1 happened?</p> <p>2 A. No.</p> <p>3 Q. Did he, in fact, take you aside from      4 the huddle?</p> <p>5 A. No.</p> <p>6 Q. And didn't he express concern and      7 anger, actually, about how you approached his team?</p> <p>8 MR. GRAFF: Objection.</p> <p>9 A. No.</p> <p>10 Q. And didn't you tell him that you      11 there to "clean up the mess"?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Then the following day during an H.R.      14 meeting on October 5 you had a loud disagreement      15 with Theresa Ricciardi; isn't that correct?</p> <p>16 A. Yes.</p> <p>17 Q. You were both yelling at each other,      18 correct?</p> <p>19 A. She was yelling at me.</p> <p>20 Q. And you were yelling at her, correct?</p> <p>21 A. No.</p> <p>22 Q. You're saying you were not yelling at      23 her?</p> <p>24 A. No.</p> <p>25 Q. Would it surprise you to hear that</p>

<p style="text-align: center;">Page 86</p> <p>1 three other people will testify that you were 2 yelling at her?</p> <p>3 A. Yes.</p> <p>4 Q. You stormed out of the meeting saying 5 that you resigned; isn't that correct?</p> <p>6 A. That I was contemplating resignation, 7 yes.</p> <p>8 Q. Ms. Martin actually asked you to come 9 back into the room asking that you do not resign.</p> <p>10 A. Yes.</p> <p>11 Q. And upon return to the room you 12 argued with Theresa Ricciardi again.</p> <p>13 A. I did argue, yes.</p> <p>14 Q. And Ms. Ricciardi was terminated that 15 day, correct?</p> <p>16 A. For insubordination, yes.</p> <p>17 Q. Which was a Friday?</p> <p>18 A. Yes.</p> <p>19 Q. And you were terminated upon coming 20 to work that Monday, October 8th, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And you were told that it was because 23 you did not make a good fit for Ashley; is that 24 correct?</p> <p>25 A. Partially, yes.</p>	<p style="text-align: center;">Page 88</p> <p>1 Chrinian?</p> <p>2 A. No.</p> <p>3 Q. Did you ever discuss it with Mr. 4 Scott?</p> <p>5 A. No.</p> <p>6 Q. Do you have any evidence to show that 7 either Ms. Thorpe or Ms. Dominguez ever told Ms. 8 Martin about your sexual orientation?</p> <p>9 A. No.</p> <p>10 Q. Do you have any evidence to show that 11 Ms. Thorpe and/or Ms. Dominguez ever told Mr. 12 Chrinian about your sexual orientation?</p> <p>13 A. No.</p> <p>14 Q. What facts do you contend support 15 your claim that you were discriminated against 16 because of your sexual orientation?</p> <p>17 A. Ms. Martin on various occasions 18 questioned my relationship. She referred to my 19 partner as "husband," and I corrected her many 20 times. She asked me what that meant, and I said 21 that's somebody that you live with. And she said, 22 "The only time I've ever heard that is when my dike 23 sister referred to her partner in that term. Is 24 that what you're saying to me?" And I know that 25 you're -- she would go back to religion. So</p>
<p style="text-align: center;">Page 87</p> <p>1 Q. Please turn to the Second Cause of 2 Action in your complaint, in Perez Exhibit Number 7. 3 In your Federal Court Complaint the Second Cause of 4 Action alleges that you were discriminated against 5 in violation of the New Jersey law against 6 discrimination; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Specifically you claim that you were 9 discriminated against because of your sexual 10 orientation, correct?</p> <p>11 A. Yes.</p> <p>12 Q. What is your sexual orientation?</p> <p>13 A. I'm a lesbian.</p> <p>14 Q. While working at Ashley, did you ever 15 discuss your sexual orientation with anyone?</p> <p>16 A. Yes.</p> <p>17 Q. Did you discuss it with Amber 18 Dominguez?</p> <p>19 A. Yes.</p> <p>20 Q. Did you discuss it with Lisa Thorpe?</p> <p>21 A. Yes.</p> <p>22 Q. Did you ever talk to Ms. Martin about 23 it?</p> <p>24 A. No.</p> <p>25 Q. Did you ever discuss it with Mr.</p>	<p style="text-align: center;">Page 89</p> <p>1 numerous times she questioned my sexuality, and she 2 questioned my relationship and the nature of my 3 relationship with my partner.</p> <p>4 Q. How did Ms. Martin find out about 5 your sexual orientation, do you know?</p> <p>6 A. I don't know.</p> <p>7 Q. Give me examples of other ways that 8 you feel that Ms. Martin discriminated against you 9 because of your sexual orientation?</p> <p>10 A. When she was showing me pictures of 11 her family on Facebook, she pointed to her daughter 12 and said that she was bisexual, and she also said 13 that her sister was a lesbian. She didn't refer to 14 her as a lesbian, she referred to her as a "lesbo" 15 or a "dike" or a "rug muncher." She said that the 16 only time that she had heard people speaking the way 17 that I do about equality and bringing diversity were 18 people who were fags and lesbos. She asked me again 19 if I was a lesbian, to which I said, "That's really 20 not something that I want to discuss here."</p> <p>21 Q. When did she ask you if you were a 22 lesbian?</p> <p>23 A. When she was showing me pictures on 24 Facebook. The exact date I don't remember. It was 25 previous to my employment -- I think it was the</p>

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<p>1        24th, the Saturday, it was the first time that she      2        had ever even asked me that.      3        Q. And you didn't discuss it with her,      4        correct?      5        A. At length I said the only thing --      6        Q. Forget about at length. You said to      7        me before you never told her that you were a      8        lesbian.      9        A. No.      10      Q. So you never did tell Kathy Martin      11      that you're a lesbian?      12      A. No.      13      Q. Do you claim that you were subjected      14      to a hostile work environment because of your sexual      15      orientation?      16      A. Yes.      17      Q. And what facts do you contend support      18      this claim?      19      MR. GRAFF: Are you asking apart from      20      things she's already testified about?      21      MR. HARZ: Yes. Well, actually, in      22      addition.      23      Q. What facts do you contend support the      24      claim that you had a hostile work environment.      25      MR. HARZ: And if it's some of the</p>	<p>1        orientation.      2        A. No.      3        Q. Did anyone ever make a derogatory      4        statement to you, personally, about your sexual      5        orientation?      6        MR. GRAFF: Objection.      7        Q. Answer the question.      8        A. I'm not sure I understand.      9        MR. HARZ: Read back the question,      10      please.      11      A. No, you're going to have to say it      12      another way. I don't understand.      13      Q. Well, we'll read back the question      14      and then we'll go from there.      15      (The last question is read by the      16      Reporter.)      17      A. No, to me directly, no.      18      Q. Did anyone ever make a derogatory      19      statement to you about your gender?      20      A. Yes.      21      Q. Who? Your "gender" meaning male,      22      female.      23      A. The sales staff, Ms. Thorpe, Lisa,      24      and Ms. Dominquez, Ms. Ricciardi.      25      Q. About your gender?</p>
<p>1        things she's said, as well, she can repeat them.      2        A. Ms. Martin would point to people and      3        say, "She walks like a dike," or she is -- "Or look      4        at this, he has mannerisms of a fag. I don't get      5        why people just can't act straight." She actually      6        pointedly said to me, "You know, they could look      7        like you."      8        Q. Anything else that you feel created a</p>	<p>1        A. Yes, "bitch," that's about my gender.      2        Q. Other than "bitch," did anyone --      3        A. "Cunt."      4        Q. -- make any derogatory statements?      5        And who said "bitch" to you?      6        A. Both Ms. Thorpe -- all three, Ms.      7        Thorpe, Ms. Martin, Ms. Dominquez, not Ms.      8        Ricciardi.</p>
<p>9        hostile environment for you?      10      A. Yes. The continuous derogatory      11      comments calling people "fag," "lesbian."      12      Q. Other than her comments, did she do      13      anything to create a hostile environment?      14      A. Yes, she spoke to other employees      15      about those things and tried to create --      16      Q. About you?      17      A. No, about other people.      18      Q. But not about you?      19      A. I don't know. They didn't tell me.      20      Q. All I'm asking is a hostile      21      environment about you --      22      A. No.      23      Q. -- in terms of her creating a hostile      24      environment or anyone creating a hostile environment      25      about you which you contend involved your sexual</p>	<p>9        Q. Any other supervisors in addition to      10      Mr. Martin?      11      A. To me directly, no.      12      Q. And "cunt"?      13      A. Ms. Martin.      14      Q. To you?      15      A. Uh-huh.      16      Q. And any other supervisors in addition      17      to Ms. Martin?      18      A. No.      19      Q. Any other derogatory statements made      20      to you about your gender?      21      A. No.      22      Q. Did you ever complain to anyone about      23      alleged harassment?      24      A. Yes.      25      Q. To whom?</p>

<p style="text-align: center;">Page 94</p> <p>1 A. Mr. Nunez.      2 Q. What's Mr. Nunez's position?      3 A. He's the sales manager -- was the      4 sales manager. I don't know if that's his title      5 now.      6 Q. Did you report to Mr. Nunez?      7 A. No, I was talking about his staff      8 actually --      9 Q. Just answer my question yes or no.      10 Did you report to Mr. Nunez?      11 A. No.      12 Q. Did anyone you report to report to      13 Mr. Nunez?      14 A. No.      15 Q. He was the only one you complained      16 to?      17 A. It was about his staff, yes.      18 Q. Again, I asked you if you ever      19 complained to anyone about alleged harassment. You      20 said Mr. Nunez.      21 A. Yes.      22 Q. Did you ever complain to anyone else      23 about alleged harassment?      24 A. Ms. Martin.      25 Q. Did you ever complain to anyone else?</p>	<p style="text-align: center;">Page 96</p> <p>1 legal conclusion.      2 A. I don't know.      3 Q. Well, do you have any additional      4 facts other than what we've already discussed to      5 support your retaliation claim under the New Jersey      6 law against discrimination?      7 MR. GRAFF: Same objection.      8 A. I don't know. I'd refer to my      9 attorney.      10 Q. No, you can't refer to your attorney.      11 I'm asking you if you have any our facts other than      12 what we've already discussed to support your claim      13 for retaliation under --      14 A. I wouldn't know, sir, I'm not legally      15 inclined.      16 Q. It has nothing to do with a legal      17 issue, it has to do with facts. I'll ask my      18 question again. Other than the facts we discussed      19 with regard to your claim under Section 1981, do you      20 have any other facts to support your claim for      21 retaliation under the New Jersey law against      22 discrimination --      23 A. I would not know --      24 Q. -- or are they the same facts?      25 A. -- because I don't know what the</p>
<p style="text-align: center;">Page 95</p> <p>1 A. Ms. Thorpe.      2 Q. Who's the supervisor?      3 A. You just said did I complain to      4 anyone else.      5 Q. Are you going to argue with me now      6 about my questions?      7 MR. HARZ: Please read my question      8 back.</p> <p>9 (The Reporter reads the following:      10 "QUESTION: Did you ever complain to      11 anyone else about alleged harassment?"")      12 Q. Did you complain to anyone else who's      13 a supervisor about alleged harassment?      14 A. No, Ms. Martin, that's it.      15 Q. Let's turn to your Third Cause of      16 Action in your complaint, please, in Perez      17 Exhibit 7. In your Third Cause of Action you allege      18 that you've been retaliated against in violation of      19 the New Jersey law against discrimination; is that      20 correct?      21 A. Yes.      22 Q. Is this claim essentially the same as      23 your retaliation claim in Section 1981 we already      24 discussed?      25 MR. GRAFF: Object, that calls for a</p>	<p style="text-align: center;">Page 97</p> <p>1 definition encompasses. I would not be able to      2 properly answer that question, sir. I do not know.      3 Q. You read your complaint, correct?      4 A. That is my answer, sir.      5 MR. GRAFF: He's asking a new      6 question.      7 A. I read the complaint.      8 Q. And you don't know?      9 A. I would not know. That's why I refer      10 to my counsel for that.      11 Q. Thank you.      12 You read this complaint before you filed      13 with it with the Court?      14 A. I did.      15 Q. Is the complaint accurate?      16 A. Yes.      17 Q. Does it state all of the things you      18 believe the named defendants did that were improper?      19 MR. GRAFF: Objection.      20 A. To the extent that my attorney feels      21 is appropriate.      22 Q. No, no, I'm asking you the question.      23 A. I would not know, sir, I'm not an      24 attorney.      25 Q. Let me ask you a question. You have</p>

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1 Q. Any other way that you're suffering  
 2 emotional pain and suffering?

3 A. Yes, I had to remove my -- I don't  
 4 sleep.

5 Q. You never sleep?

6 A. No, it's impossible.

7 Q. You said you don't sleep.

8 A. I wake a lot. It's difficult to get  
 9 to sleep. I'll sleep two hours in an evening.

10 Panic attacks come and go. There's moments  
 11 that I feel like I'm going to be confronted with  
 12 something I can't handle, a bill that I can't pay,  
 13 hospitalization, whatever it is, a full-on panic  
 14 attack. I thought it was a heart attack, actually.  
 15 I went to the hospital.

16 Q. But you weren't diagnosed with a  
 17 heart attack, were you?

18 A. No, I was diagnosed with --

19 Q. Thank you.

20 A. -- a panic disorder.

21 Q. Please, just answer my questions.  
 22 You weren't diagnosed with a heart attack, were you?

23 A. No.

24 Q. Thank you. Anxiety?

25 A. Yes.

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1 Ms. Martin, did you?

2 A. I was only required to report to Ms.  
 3 Martin.

4 Q. No, please don't tell me what you  
 5 think the rules are. My question is --

6 A. I don't think those are the rules.  
 7 Those were the rules I was given, sir.

8 Q. Excuse me.

9 A. And no, I did not report --

10 Q. Excuse me.

11 A. -- to anyone else.

12 Q. Excuse me. I'll ask the questions,  
 13 you please give me the answers.

14 A. I was answering you.

15 Q. Please give me the answers. You  
 16 didn't complain to anyone who was over Ms. Martin at  
 17 Ashley; isn't that correct?

18 A. I need five minutes.

19 Q. Please answer my question, and then  
 20 you'll --

21 A. I didn't even hear you. I need five  
 22 minutes.

23 Q. Please answer my question. You did  
 24 not complain to anyone over Ms. Martin at Ashley;  
 25 isn't that correct?

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1 Q. How does it manifest itself?

2 MR. GRAFF: Are you asking apart from  
 3 what she has testified to in the last few minutes?

4 MR. HARZ: Yes.

5 A. How does it manifest? For instance,  
 6 while I was at Ashley Furniture and just after the  
 7 argument with Ms. Ricciardi, where there was back  
 8 and forth, cursing and derogatory names and all of

9 this, I had to leave the room. And it started with  
 10 shakes, it felt like I couldn't breathe, vision  
 11 tunneled, I sweat, my hands sweat, I can't speak.

12 Q. All from your argument with Ms.  
 13 Ricciardi?

14 A. No, not all from that. It  
 15 culminates.

16 Q. What culminates?

17 A. All of the things that are happening.  
 18 So, you know, you hear someone say the word  
 19 "nigger," call someone a "fag," and you try to  
 20 correct it, and then you're corrected to try to  
 21 help, you know, relieve --

22 Q. But you didn't complain to any higher  
 23 up?

24 A. I did, Ms. Martin.

25 Q. You didn't complain to anyone over

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1 MR. GRAFF: Just answer it yes or no.

2 THE WITNESS: I didn't even hear what  
 3 he's saying. I need to go to the bathroom.

4 Q. Please answer my question.

5 MR. GRAFF: For the record, the  
 6 witness is acting very distraught, she's crying and  
 7 upset.

8 MR. HARZ: We'll give her a few  
 9 minutes.

10 MR. GRAFF: Thank you.

11 (At this point in the proceedings,  
 12 a brief recess is taken.)

13 Q. The standing question, Ms. Perez, is:  
 14 Did you ever complain to a supervisor over Ms.  
 15 Martin at Ashley?

16 A. No.

17 Q. Thank you. Did you ever consult with  
 18 a healthcare provider about your symptoms?

19 A. Yes.

20 Q. A medical doctor?

21 A. Yes.

22 Q. Can I have the name of the medical  
 23 doctor?

24 A. Sure, Dr. Luke Eyerman, and I went  
 25 to --